



CITY COUNCIL STAFF REPORT

MEETING DATE: July 10, 2002

Agenda Item # 1

Prepared By:

City Attorney

Submitted By:

City Manager

AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF STEPHAN C. VOLKER

RECOMMENDED ACTION(S): Authorize the City Manager to execute the attached Amendment to Agreement with the law firm of Stephan C. Volker.

EXECUTIVE SUMMARY:

The City contracted with the firm of Stephan C. Volker to represent the City in matters relating to the Application for Certification for the Metcalf Energy Center before the California Energy Commission and before the Environmental Appeals Board of the United States Environment Protection Agency.

Mr. Volker has filed three separate court actions representing the City's interests in this matter. The current contract is for \$42,500. This amount covered legal fees and expenses incurred through May 2002. The current contract is insufficient to cover the fees and expenses associated with the three separate court actions. Therefore, staff is recommending that Council approve the attached amendment to agreement increasing the contract amount to \$62,500. This amount should be sufficient to cover the fees and costs associated with the ongoing cases for the months of June through August.

FISCAL IMPACT: The \$20,000 can be accommodated from the City Attorney's 2001-2002 and 2002-2003 budgets without additional appropriation.



CITY COUNCIL STAFF REPORT

MEETING DATE: *July 10, 2002*

MEMORANDUM OF UNDERSTANDING WITH MHUSD AND SAN JOSE REGARDING PROVISION OF SERVICES TO SOBRATO SITE

Agenda Item # 2

Prepared By:

City Attorney

Submitted By:

City Manager

RECOMMENDED ACTION: Authorize the City Manager to execute the attached Agreement between the City of Morgan Hill, the Morgan Hill Unified School District, and the City of San Jose regarding provision of police, fire, water and sewer services to the Sobrato High School site.

EXECUTIVE SUMMARY:

The Morgan Hill Unified School District is in the process of building a new high school on property located within the jurisdictional boundaries of the County of Santa Clara and the City of San Jose ("Sobrato Site.") San Jose sued the District challenging the location of the high school on that Site. San Jose also sued the City of Morgan Hill for agreeing to provide fire, police, water and sewer services to the Site. Pursuant to a negotiated settlement agreement, San Jose agreed to let Morgan Hill provide services to the Site. The attached agreement outlines the City's conditions for provision of those services to the Site.

Notable provisions are those in Section 1 addressing water, which is provided through a combination of potable and irrigation sources. In order to facilitate provision of irrigation water, the Agreement provides that the City will give the abandoned Burnett Avenue well to the District to use for irrigation purposes. In addition, the Agreement contains restrictions on the water supply to ensure that adequate safety and conservation measures are maintained. Section 2 of the Agreement also addresses several concerns raised by the City in prior discussions with the District, namely payment of impact fees and mitigation of environmental impacts (primarily traffic impacts on the adjacent neighborhoods.) Finally, Section 4 of the Agreement outlines responsibilities of the District and the City in regards to efforts to annex the Site.

Staff has had continuing concerns about the traffic portion of the environmental review performed by the District for the Sobrato site, which it has shared with the District on several occasions. Specifically, staff believes that the traffic report performed by the District's consultant identifies a traffic signal at the Burnett Avenue/Madrone Mobile Home Park West driveway as a mitigation measure to be implemented with the opening of the school. Although the draft agreement does reflect that the District will implement mitigation measures for the traffic impacts it identified in its environmental review, the construction of the traffic signal concurrent with the opening of the school is not a required mitigation measure. (see attached memorandum.)

FISCAL IMPACT: The District has agreed to pay fees for plan check & inspection of roadway improvements along Burnett Avenue and at the intersection of Monterey and Burnett. The City will incur unreimbursed staff time to implement the provisions of the Agreement, particularly the mitigation monitoring plan, although it is anticipated that these costs will be absorbed by the Departments in within their 2002-2003 budgets.



CITY COUNCIL MEETING STAFF REPORT

Agenda Item # 3

Prepared By:

Recreation Manager

Submitted By:

Recreation Manager

MEETING DATE: July 10, 2002

TITLE: PILOT JOINT USE FACILITIES AGREEMENT
BETWEEN THE MORGAN HILL UNIFIED SCHOOL
DISTRICT AND THE CITY OF MORGAN HILL

RECOMMENDED ACTIONS:

1. Authorize the City Manager to enter into a Pilot Joint Use Facilities Agreement between the Morgan Hill Unified School District and the City of Morgan Hill.

EXECUTIVE SUMMARY: The City/School District Liaison Committee has been exploring opportunities for cooperative efforts that benefit the community. One such opportunity serves youth sports groups within our city who utilize both City and School District sports fields for their activities. Currently, local sport groups must schedule field use with both the City and the School District in order to ensure that adequate space is available for their sports activities. As community needs for public field access and use continue to increase, it is highly desirable to coordinate the use of these limited resources.

The attached proposed agreement establishes a pilot program whereby the City Recreation Division will schedule and reserve use of City sport fields and District sport fields at Britton Middle School and Paradise Elementary School. In this way, sport groups can schedule their entire season at one time in one location. Some key elements of the agreement include:

2. The City shall utilize its recreation scheduling software to schedule both City and District facilities noted above.
3. The City and the District shall each be separately responsible for maintenance of their own facilities as well as develop and enforce their own rules, regulations and procedures for field use.
4. The City shall charge and retain a processing fee for accepting reservations for District fields at Britton Middle School and Paradise Elementary School.
5. This pilot program will be in effect from July 1, 2002 to July 1, 2003 unless otherwise extended by both parties.
6. The City shall be allowed access to District fields for City recreation programs.

FISCAL IMPACT: Fiscal impact is minimal. Processing fees are intended to partially offset the administrative cost of processing the reservations. Revenues from this service will likely not exceed \$250 annually.



CITY COUNCIL STAFF REPORT

MEETING DATE: July 10, 2002

AWARD OF CONTRACT FOR SLURRY SEAL AND ROADWAY REPAIR PROJECT

RECOMMENDED ACTION: Award contract to Silicon Valley Paving for the construction of the Slurry Seal and Roadway Repair Project in the amount of \$147,222.75.

Agenda Item # 4

Prepared By:

Junior Engineer

Approved By:

Public Works Director

Submitted By:

City Manager

EXECUTIVE SUMMARY:

The scope of work for this project includes slurry sealing, crack sealing, and pavement repair on our local residential streets in the Jackson Oaks and Bluebonnet/Peppertree neighborhoods as shown on the attached map. Work will also be performed along Monterey Road from City Limit to Cochrane Avenue.

The bid opening was held on May 2, 2002 and the bids received are as listed below. The low bidder has twenty plus years in the paving industry. Staff recommends award of the contract to Silicon Valley Paving. This project is scheduled to start in August, 2002 and will be completed by September 2002. The engineer's estimate for this project was \$177,000. The bid's total price is approximately 17% lower than estimated.

Silicon Valley Paving	\$147,222.75
California Pavement Maintenance Co.	\$149,178.49
Bond Blacktop, Inc.	\$150,680.65
Valley Slurry Seal Co.	\$162,703.20
Intermountain Slurry Seal	\$174,528.77

FISCAL IMPACT:

The total contract cost for this project is \$161,945, which includes a 10% contingency of \$14,723. The project will be funded in our 2002/2003 budget, Project #519I02.



CITY COUNCIL STAFF REPORT

MEETING DATE: JULY 10, 2002

APPROVE SOLE SOURCE PURCHASE OF WATER METERS

RECOMMENDED ACTION(S):

1. Approve purchase of water meters, meter parts and MXUs from Invensys Metering Systems (formerly Sensus Technologies) in accordance with Section 3.04.120.A (4) of the Municipal Code - Brand names or equal specification and Section 3.04.150.C - Sole Source Purchases
2. Approve purchase order of \$250,000 to Invensys Metering Systems for the annual supply of water meters, meter parts and MXUs.

EXECUTIVE SUMMARY: Section 3.04.120.A of the Municipal Code allows the City to purchase brand names or equal specifications when the Purchasing Officer determines that the use of brand name or equal specification is in the City's best interests. In addition, Section 3.04.150 of the Municipal Code provides that the City Council may approve a purchase where the Purchasing Officer determines that there is only one source to the required supply or service. The Purchasing Officer has made the above two determinations.

In 1987, the City began a program to install TouchRead water meters throughout the City. At that time a decision was made to use meters made by Sensus Technologies for all new construction and replacement meters. In February 1997, the use of meters from Sensus Technologies was reviewed from a program perspective and a market perspective. It was determined that it was appropriate to continue with the Sensus Technologies meter program. A pilot program was approved in FY 2000-01 to upgrade the TouchRead system in the Woodland, Jackson Oaks and Holiday hillside areas to RadioRead technology. This program will continue this year with the installation of an additional 1000 MXUs (Meter Transceiver Unit) in the hillside areas.

The Public Works Department is continuing the water meter replacement program and will be installing new water meters during FY 2002-03. It is appropriate to continue to use Invensys meters to insure a uniform water meter system throughout the City.

FISCAL IMPACT: This item is budgeted in the FY 2002-03 Meter Division (650-43897-5720).

Agenda Item #5

Prepared By:

Management Analyst

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: July 10, 2002

Agenda Item # 6

Prepared By:

Public Works Director

Submitted By:

City Manager

APPROVAL OF CONTRACT/FUNDING FOR CONTRACT/ TEMPORARY ENGINEERING SERVICES

RECOMMENDED ACTION: Approve the attached contract and funding for two temporary full-time and one contract part-time engineer.

EXECUTIVE SUMMARY: To help our Engineering Division meet their very heavy work load due to a combination of full-time staff vacancies and our very ambitious CIP program, staff has solicited help from contract engineering service providers. We have negotiated services for in-house contract engineers, two on a full-time temporary basis and one on a part-time contract basis.

Sufficient funds exist in the current year budget and therefore no appropriation of funds is necessary, however, since each of the three consultant service providers is expected to receive more than \$20,000 this fiscal year, Council approval is needed.

A contract is attached with the engineering services contract provider, Mrs. Alice Tulloch. Mrs. Tulloch will be working one to two days per week in City offices and will focus mainly on utility issues, including the construction of our two new reservoirs, the new trunk sewer project, and other utility related capital projects. Mrs. Tulloch's rate of compensation is \$117/hour with no benefits, and funding will come from our various CIP projects and our CIP administration budget. It is expected that the cost for these services will not exceed \$86,500 in the 02/03 fiscal year. Mrs. Tulloch provided these services in FY 00/01 and 01/02.

We have two other full-time temporary engineers both on staff 40 hours per week and compensated at the rate of \$65 and \$70/hour, again without benefits. The two full time temporary engineers serve as project managers mainly on capital projects and are funded, depending on area of work, from our land development engineering budget, our CIP Administration budget, and our CIP budget. It is expected that the total compensation through the end of the current fiscal year will be approximately \$120,000 each.

FISCAL IMPACT:

Sufficient funds exist in the current year budget in our Engineering, CIP, and CIP Administration budgets.



CITY COUNCIL STAFF REPORT

MEETING DATE: *July 10, 2002*

AWARD CONTRACT FOR CONSTRUCTION OF THE WARREN/HALE/NOB HILL TERRACE STREET IMPROVEMENT PROJECT

RECOMMENDED ACTION: Award contract to Wattis Construction Co., Inc. for the construction of the Warren/Hale/Nob Hill Terrace Street Improvement Project.

Agenda Item # 7

Prepared By:

Assistant Engineer

Approved By:

Public Works Director

Submitted By:

City Manager

EXECUTIVE SUMMARY: As part of the City's Capital Improvement Program, the Public Works Department is coordinating the Warren/Hale/Nob Hill Terrace Street Improvement Project. This project will provide for the construction of new curbs, gutters, sidewalks, sanitary sewer mains, storm drains, and roadway pavement on portions of Warren Avenue, Hale Avenue, and Nob Hill Terrace. New water services will be provided to homes which will require meter relocation. Block retaining walls will be installed where required. Roadway pavement improvements include section of both overlay and full reconstruction. Overlay protects and preserves the surface condition, helps maintain the structural integrity, and restores the surface texture and skid resistance of the roadway. After the roadway is paved, new traffic stripes will be painted to improve traffic safety operation including stop bars, raised pavement markers, and legends. Over 1,000 linear feet of new sidewalks, curb and gutters, as well as driveway restoration work behind the sidewalk provide an improved walking environment for pedestrians. The project will have positive overall impact on the community by improving aesthetics and function.

The bid opening was held on June 13, 2002. The bids received are listed below:

Wattis Construction Co., Inc.	\$572,250
C.F. Archibald Paving	\$675,616
Granite Rock Co./Pavex Construction	\$708,896

The low bid was 13% above the Engineer's Estimate of \$505,780. Staff has completed a background check on the low bidder and recommends award of the contract to Wattis Construction Co., Inc. The work is scheduled to start in July of 2002 and will be completed by November of 2002.

FISCAL IMPACT:

The total contract cost for this project is \$629,475, which includes at 10% contingency of \$57,225, and will be funded by the 2002-03 Capital Improvement Program (CIP) Budget as follows:

FY 01/02 Carryover, Project #610093 (Water Main Replacement) in the amount of \$49,913

FY 01/02 Carryover, Project #521099 (Local/Collector Street Construction/Reconstruction) in the amount of \$339,000

FY 01/02 Carryover, Project #415097 (Storm Pipe and Inlet Installation) in the amount of \$78,037

FY 02/03, Project #301093 (Upgrade Existing Pipelines) in the amount of \$162,525



CITY COUNCIL STAFF REPORT

MEETING DATE: July 10, 2002

SUBDIVISION APPLICATION SD 01-10: COCHRANE-COYOTE ESTATES

RECOMMENDED ACTION(S): Take no action, thereby concurring with the Planning Commission's decision regarding approval of the subdivision map.

Agenda Item # 8

Prepared By:

Contract Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager

EXECUTIVE SUMMARY:

The overall project site is 70-acres, of which 41-acres have been developed, and is referred to as Coyote Estates. The proposed vesting tentative map would allow the creation of 17 lots on 6-acres of the 70-acre project. The project has completed Phases I - V and has received 16 building allotments for Phase VI. The 17th lot is requested for the purpose of a park and possible future extension of Eagle View Drive. The creation of the lot will require a deed restriction precluding its development since the applicant received points in the Measure P competition for providing park amenities. The lots as proposed meet the applicable city standards and the overall lot layout and circulation is consistent with the proposed RPD.

Section 17.20.110 of the Subdivision Ordinance provides for City Council review of tentative maps, which have been approved by the Planning Commission. The Council may schedule a hearing to reconsider the Commission action, or by taking no action, let the Commission's action of approval stand.

This application was reviewed by the Planning Commission at its June 11, 2002, meeting. The Commission voted 7-0, approving the request. The Planning Commission resolution and conditions of approval are attached. The minutes, staff report and plans for the subdivision are attached to the zoning amendment request, within this same agenda.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.



CITY COUNCIL STAFF REPORT

MEETING DATE: July 10, 2002

SUBDIVISION APPLICATION SD 01-11: COCHRANE- MISSION VIEW

RECOMMENDED ACTION(S): Take no action, thereby concurring with the Planning Commission's decision regarding approval of the subdivision map.

EXECUTIVE SUMMARY:

The applicant is requesting approval of a 28-lot subdivision of a 9.2 acre portion of a 98-acre site located on the south east corner of the intersection of Cochrane Rd. and Mission View Dr. The proposed subdivision will represent phases 5 & 6 of the Mission Ranch project. In May 2001 the Mission Ranch project received allocations for Phases V (15 units, FY 2002-03) and VI (9 units, FY 2003-04). In October 2001, the development agreements for phases V & VI was approved. The approval of the agreement allowed the project to be considered as an ongoing project and receive additional points under the 2001 RDCS competition. On June 5, 2002, the City Council awarded another 4 allocations, which are to be added to Phase VI bringing it to a total of 13 units for FY 2003-04.

Section 17.20.110 of the Subdivision Ordinance provides for City Council review of tentative maps which have been approved by the Planning Commission. The Council may schedule a hearing to reconsider the Commission action, or by taking no action, let the Commission's action of approval stand.

This application was reviewed by the Planning Commission at its June 11, 2002, meeting. The Commission voted 7-0, approving the request. The Planning Commission resolution and conditions of approval are attached. The staff report and plans for the subdivision are attached to the zoning amendment request within this same agenda.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

Agenda Item # 9

Prepared By:

Senior Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR CITY COUNCIL AND REDEVELOPMENT AGENCY
SPECIAL MEETING
MINUTES - JUNE 19, 2002**

CALL TO ORDER

Mayor Pro Temp Carr called the meeting to order at 7:07 p.m.

ROLL CALL ATTENDANCE

Present: Mayor Pro Temp/Agency Member Carr, Council/ Agency Members Chang, Tate
Arriving Late: Mayor/Chairperson Kennedy, arrived at 8:45 p.m.
Absent: Council/Agency Member Sellers

DECLARATION OF POSTING OF AGENDA

Office Assistant II Malone certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

Mayor Pro Tem Carr invited the President of the Board of Directors of the Chamber of Commerce, Alex Kennett, to lead the pledge of allegiance.

CITY COUNCIL REPORT

Mayor Kennedy arrived late, and was not present to give his report.

CITY MANAGER'S REPORT

City Manager/Agency Director Tewes presented his report to the Council.

He reported on the All American Cities Conference he attended last week with Mayor Kennedy, where they saw 30 different communities make presentations on how they addressed the important issues in their communities. He noted that there was not just government involvement, but community involvement as well. He stated that they had gained an appreciation of the amount of work to put the program together, and the work and expense of putting the application together. He plans to report later to the Council on how to proceed along those lines.

CITY ATTORNEY'S REPORT

City Attorney/Agency Counsel Leichter stated there was no report.

OTHER REPORTS

Mayor Pro Tem Carr gave the report from the Finance & Audit Committee and stated that they had discussed the budget coming before the Council next week. Finance and Audit Committee will make specific recommendations to the Council next week during the Budget hearing.

1) INFORMATIONAL REPORT ON CABLE TELEVISION PRICING PACKAGES

City Manager Tewes explained the arrangement the City of Morgan Hill has with Charter Cable. He also stated that the City has less ability to regulate the franchise than in the past due to changes in the Federal law. He stated that Mr. McGough has been invited here to explain the recent changes in the channel lineup and package pricing in response to the Council request for this information so they can better respond to their constituents on this issue.

Mr. McGough reviewed the service of the cable company in Morgan Hill, reporting that there are currently 7100 customers in Morgan Hill, and 1100 subscribers to high speed internet services. He explained that during the rebuild there were new services added and launched, with different levels of service established. The Basic Package provided 28 channels, and Expanded Service would add up to 50 additional channels to the basic number. He reported that after the rebuild, they noticed that the numbers of subscribers requesting expanded services was lower than it should have been. When they investigated, they discovered that on some homes there was a filter missing that allowed those homes to receive expanded channel service without being signed up for that expanded service. Charter notified the City, and notified the customers involved offering them the opportunity to purchase the expanded service if they wished to do so, or to stay at the basic service level. They also knocked on every door and offered again. They left door hangers letting them know the filters had been installed, and the service had been changed. He stated that they had tried very hard to let every single homeowner receiving the extra service know what was going to happen, and trained the customer service representatives to be able to explain it to those who called Charter Cable.

Prior to the rebuild of the system, customers received 19 channels for \$26.00. After the rebuild, basic service of 28 channels costs \$27.63 per month. Optional Expanded Service adds an additional 50 channels and costs an additional \$21.32 per month.

Council Member Chang noted that the biggest complaint she had received related to the loss of the Discovery Channel and some of the educational channels that are not in the basic service package anymore, and asked if Charter could add some of those programs back to the Basic Service package.

Mr. McGough stated that Charter takes those suggestions seriously, and wants to build a package that has something for everyone. If there is a request for that to be added back it will be looked at. He stated he will make sure that happens.

Mayor Pro Tem Carr asked if the service level audit that is being done will determine what channels of the basic 28 are actually being used by customers, and requested that this information be provided to the Council. He stated that he wants to make sure that customers are receiving channels that they want to

watch.

Mr. McGough stated that yes, that can be done, and he will bring that information back to the Council.

Council Member Tate asked how Charter does public surveys to make sure customers want the changes the company is making.

Mr. McGough responded that some of the changes are mandated by the federal government, and other changes are determined by marketing surveys. He stated that it is in the best interests of the company to make sure they have a line up that reflects what the customers want to see. The better the line up the more customer satisfaction, so the company cares very much what the customer thinks.

Council Member Tate stated that he, as a customer, has not been consulted on these changes. Stated that he feels that the company is not communicating the message of caring to the public, and that he gets this feedback a lot.

Mr. McGough thanked him and stated that he will pass this on to his staff.

Mayor Pro Tem Carr requested that Charter Cable work with the City Manager to make sure that the Council gets to review the service level audit, and can have input on why channels are moved and changed.

Mr. McGough reported that last Thursday they had held a focus group and invited a dozen current and past customers and asked them about these issues and to rate service. They felt they received some clear mandates on things the customers would like to see, including more packages and more affordable packages.

In response to Mayor Pro Tem Carr's question regarding Senior pricing, Mr. McGough explained that the policy of Charter towards Senior citizens is the same as other utilities, and their charges are related to their income levels.

Mayor Pro Tem Carr thanked him for coming and stated that he is looking forward to seeing the service level audit.

OPPORTUNITY FOR PUBLIC COMMENT

Mayor Pro Tem Carr opened the floor to comments for items not appearing on this evening's agenda.

Mr. Robert Benich spoke to the Council regarding bus stops in Morgan Hill. He stated that because of the extension of the sales tax for VTA projects, there is money available for cities to apply for projects. He proposed that the City apply for funds for the design and construction of enclosed, all weather bus stops throughout the city. Stated that this is an opportunity to foster rider ship, and construct unique designs that have a consistent theme throughout the city. He urged the Council to apply for these available VTA funds for this upgrade of bus stop project.

Mayor Pro Tem Carr thanked him, and stated that there are some issues to be considered because of VTA requirements for advertising to be displayed at the bus stops. Stated that this is something that should be

investigated, and asked the City Manager to do so and determine if this is something that the City should pursue.

City Manager Tewes stated that he would look into this and report back to the Council.

No further comments offered, public comment was closed.

City Council Action

Action: *On a motion by Council Member Tate, and seconded by Council Member Chang, the City Council **Approved** (3-0), with Mayor Kennedy and Council Member Sellers absent, Agenda Items #2 through #14, and Items #16 through #21, as follows:*

2) **MAY 2002 FINANCE AND INVESTMENT REPORT**

Action: *Accepted and Filed Report.*

3) **ANNUAL HOUSEHOLD HAZARDOUS WASTE CONTRACT**

Action: *Authorized the City Manager to Execute the Second Amendment to the Agency Agreement for Countywide Household Hazardous Waste Collection Program in the Amount of Up to \$10,000 of City Funds Once the Budget is Adopted.*

4) **RECYCLING CONTAINER PURCHASE**

Action: *Authorized the City Manager to Execute the Purchase.*

5) **COMPUTER EQUIPMENT PURCHASE**

Action: *Authorized the City Manager to Purchase Computer Equipment and Software in the Amount of \$52,189.39.*

6) **AMEND CONSULTANT AGREEMENT FOR PACIFIC GEOTECHNICAL ENGINEERING AT THE COMMUNITY AND CULTURAL CENTER PROJECT**

Action: *Amended Consultant Agreement for Pacific Geotechnical Engineering at the Community and Cultural Center Project.*

7) **APPROVAL OF RIGHT-OF-WAY PURCHASE AGREEMENTS FOR BUTTERFIELD EXTENSION, PHASE IV PROJECT (APN: 817-58-012 AND 817-32-053)**

Action: *Authorized the City Manager to Execute Purchase Agreements with the Owners of APNs 817-58-012 and 817-32-053 for Total Compensation of \$22,504 Plus Escrow and Closing Costs for the Acquisition of These Properties.*

8) **APPROVE PURCHASE OF A PORTABLE 150 KW GENERATOR FOR WELL SITES AND BOOSTER STATIONS**

Action: *Approved the Purchase of a Model D150P4 CARB/EPA Certified Caterpillar Olympian Diesel Driven Trailer Mounted Generator from Peterson Power System, Inc. for*

\$39,349.00.

9) **ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9252, SPRING MANOR SUBDIVISION**

Action: **Adopted** Resolution No. 5575, Accepting the Subdivision Improvements Included in Tract 9252, Commonly Known as Spring Manor, and **Directed** City Clerk to File a Notice of Completion with the County Recorder's Office.

10) **ACCEPTANCE OF COMMERCIAL SUBDIVISION IMPROVEMENTS FOR WALGREENS**

Action: **Adopted** Resolution No. 5576, Accepting the Commercial Subdivision Improvements for Walgreens, and **Directed** the City Clerk to File a Notice of Completion with the County Recorder's Office.

11) **CALL GENERAL ELECTION TO BE HELD ON NOVEMBER 5, 2002**

Action: **Adopted** Resolution No. 5577, Calling Election to be Held on November 5, 2002 to Elect Mayor, and Two City Council Members; and **Adopted** Resolution No. 5578, Requesting the Services of the County of Santa Clara Registrar of Voters and the Consolidation of the Election.

12) **FINAL MAP ACCEPTANCE FOR CENTRAL PARK PHASE V (TRACT 9426)**

Action: **Approved** the Final Map, Subdivision Agreement, and Improvement Plans; 2) **Authorized** the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and 3) **Authorized** the Recordation of the Map and the Subdivision Improvement Agreement Following Recordation of the Development Improvement Agreement.

13) **REJECTION OF BIDS FOR BOYS RANCH RESERVOIR #3**

Action: **Rejected** the Bids Received on May 2, 2002.

14) **COMMUNITY AND CULTURAL CENTER PROJECT MAY CONSTRUCTION PROGRESS REPORT**

Action: **Information** only.

15) **SETTING OF ANNUAL PUBLIC HEARING FOR FOX HOLLOW-MURPHY SPRINGS LIGHTING AND LANDSCAPE ASSESSMENT DISTRICT**

This item was pulled from the Consent Calendar for later discussion. This was necessary because potential conflict of interest issues for Mayor Kennedy and Council Member Chang on two of the areas under consideration required the presence of at least four Council Members to vote on this item. Mayor Kennedy arrived at 8:45 PM, and assumed the chair for this meeting from Mayor Pro Tem Carr at 9:15 PM, at which time this item was considered. The following actions were taken:

Action: On a motion by Council Member Tate, seconded by Council Member Carr, the City Council **Approved** (4-0) with Council Member Sellers absent,

Resolutions 5579, 5580, and 5581, Setting the Annual Public Hearing for the Fiscal Year 2002-2003 Fox Hollow-Murphy Springs Lighting and Landscaping Assessment District, excluding Conte Gardens and Sandalwood.

Mayor Kennedy stepped down from the dias.

Action: *On a motion by Council Member Tate, seconded by Council Member Carr, the City Council **Approved** (3-0-1) with Mayor Kennedy abstaining, and Council Member Sellers absent, Resolutions 5583, 5584, and 5585, Setting the Annual Public Hearing for the Fiscal Year 2002-2003 Fox Hollow-Murphy Springs Lighting and Landscaping Assessment District, Conte Gardens only.*

Mayor Kennedy returned to the dias, and Council Member Chang stepped down from the dias.

Action: *On a motion by Council Member Tate, seconded by Council Member Carr, the City Council **Approved** (3-0-1) with Council Member Chang abstaining, and Council Member Sellers absent, Resolutions 5586, 5587, and 5588, Setting the Annual Public Hearing for the Fiscal Year 2002-2003 Fox Hollow-Murphy Springs Lighting and Landscaping Assessment District, Sandalwood only.*

This concluded this item, and Council continued with consideration of other agenda items.

16) FISCAL YEAR CONSULTANT AGREEMENT WITH CARL MILEFF & ASSOCIATES, INC. AND NAFFA INTERNATIONAL FOR PLAN CHECKING SERVICES

Action(s): ***Approved** a New Fiscal Year Contract with Carl Mileff & Associates, Inc. for the Amount of \$40,000, 2) **Approved** a New Fiscal Year Contract with Naffa International for the Amount of \$30,000; and 3) **Authorized** the City Manager to Execute the Contracts, Subject to Review by City Attorney.*

17) AWARD OF CONTRACT FOR COSMO/MONTEREY SANITARY SEWER REPLACEMENT PROJECT

Action(s): ***Relieved** the Low Bidder, Due to an Error in the Low Bid, and 2) **Awarded** Contract to Monterey Peninsula Engineering (MPE) for the Construction of the Cosmo/Monterey Sanitary Sewer Replacement Project in the Amount of \$627,910.00.*

18) INVESTMENT POLICY UPDATE

Action(s): ***Reviewed** and **Adopted** Updated Investment Policy for the City, and 2) **Reviewed** and **Adopted** Updated Investment Policy for the Redevelopment Agency.*

19) MITIGATION MONITORING PROGRAM FOR THE CATHOLIC HIGH SCHOOL

***Action: Approved**, by Minute Action, the Mitigation Monitoring Plan for the Catholic High School Project.*

20) **APPROVED SPECIAL CITY COUNCIL MEETING MINUTES OF JUNE 3, 2002**

21) **APPROVED SPECIAL CITY COUNCIL MEETING MINUTES OF JUNE 5, 2002**

City Council and Redevelopment Agency Action

***Action:** On a motion by Council/Agency Member Tate and seconded by Council/Agency Member Chang the City Council/Redevelopment Agency **Approved** (3-0), with Mayor/Chairman Kennedy and Council/Agency Member Sellers absent, Agenda Item #22, as follows:*

22) **APPROVED SPECIAL AND REGULAR CITY COUNCIL MEETING AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF JUNE 5, 2002**

Redevelopment Agency Action

***Action:** On a motion by Agency Member Tate and seconded by Agency Member Chang the Redevelopment Agency **Approved** (3-0), with Chairman Kennedy and Agency Member Sellers absent, Agenda Item #23, as follows:*

23) **CONTRACT AMENDMENT FOR VBN ARCHITECTS**

***Action: Authorized** the City Manager to Execute an Amendment to the Approved Contract in the Amount of \$183,525.*

City Council Action

24) **DEVELOPMENT AGREEMENT AMENDMENT DAA 01-06: COCHRANE-COYOTE ESTATES**

Staff report was presented by Director of Community Development Bischoff.

Mr. Dick Oliver presented himself to the Council to answer questions.

Council had no questions.

Public Hearing was closed.

***Action:** On a motion by Council Member Tate and seconded by Council Member Chang the City Council (3-0), with Mayor Kennedy and Council Member Sellers absent, **Waived** the*

Reading in Full of Development Agreement Amendment (DAA) Ordinance No. 1566, New Series.

Action: *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council **Introduced** the Development Agreement Amendment (DAA) Ordinance No. 1566, New Series, by title Only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1523, NEW SERIES, TO AMEND THE DEVELOPMENT AGREEMENT TO INCORPORATE A SIX MONTH EXCEPTION TO LOSS OF BUILDING ALLOCATION FOR APPLICATION MP 00-22: COCHRANE - DIVIDEND (APNs 728-42-008, 017; AND 728-43-021.) by the following roll call vote: AYES: Carr, Chang, Tate; NOES: None; ABSTAIN: None; ABSENT: Kennedy, Sellers.*

25) DEVELOPMENT AGREEMENT AMENDMENT DAA 00-05: MALAGUERA-MANCIAS

Director of Community Development Bischoff presented staff report.

Public hearing was opened, but there being no public comment, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Chang the City Council (3-0), with Mayor Kennedy and Council Member Sellers absent, **Waived** the Reading in Full of Development Agreement Amendment (DAA) Ordinance No. 1567, New Series.*

Action: *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council **Introduced** the Development Agreement Amendment (DAA) Ordinance No. 1567, New Series, by title Only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1530, NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP 99-26: MALAGUERRA-ANSUINI/MANCIAS TO INCORPORATE A SIX MONTH EXCEPTION TO LOSS OF BUILDING ALLOCATION AND REVISIONS TO PARAGRAPH 14 (APN 728-35-016; 728-35-017) by the following roll call vote: AYES: Carr, Chang, Tate; NOES: None; ABSTAIN: None; ABSENT: Kennedy, Sellers.*

26) DEVELOPMENT AGREEMENT AMENDMENT DAA 00-08: BERKSHIRE-SINGH

Director of Community Development Bischoff presented staff report.

Public Hearing was opened, but there being no public comment, the Public Hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Chang the City*

*Council (3-0), with Mayor Kennedy and Council Member Sellers absent, **Waived** the Reading in Full of Development Agreement Amendment (DAA) Ordinance No. 1568, New Series.*

Action: *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council **Introduced** the Development Agreement Amendment (DAA) Ordinance No. 1568, New Series, by title Only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1516, NEW SERIES, TO AMEND THE DEVELOPMENT AGREEMENT AMENDMENT TO INCORPORATE A ONE YEAR EXCEPTION TO LOSS OF BUILDING ALLOCATION FOR APPLICATION MP 00-01: BERKSHIRE-SINGH (APN 764-23-054) by the following roll call vote: AYES: Carr, Chang, Tate; NOES: None; ABSTAIN: None; ABSENT: Kennedy, Sellers.*

27) CONFIRMING THE SANTA CLARA COUNTY FIRE MARSHAL'S REPORT RELATING TO WEED ABATEMENT

City Manager Tewes presented the staff report on this item, stating that this is a public hearing on orders to property owners to clear their property of hazardous vegetation. He stated that this is an important issue for the community because there had already been four brush fires over the last weekend.

Public Hearing was opened, but there being no public comment, the Public Hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Chang the City Council (3-0), with Mayor Kennedy and Council Member Sellers absent, **Continued** the Public Hearing to July 10, 2002.*

OTHER BUSINESS:

28) EXCEPTION TO LOSS OF BUILDING ALLOCATION, ELBA-02-02:

Community Development Director Bischoff presented the staff report.

Public Hearing was opened, but there being no public comment, the Public Hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Chang the City Council (3-0), with Mayor Kennedy and Council Member Sellers absent, **Adopted** Resolution No. 5574, Granting An Exception to Loss of Building Allocation.*

29) EXCEPTION TO LOSS OF BUILDING ALLOCATION, ELBA-02-03: EAST DUNNE-GREWAL

This item was taken out of order, and postponed until the arrival of Mayor Kennedy. Hearing began at 9:17

PM. Council Member Chang stepped down from the dais due to a possible conflict of interest at this location.

Community Development Director Bischoff presented the staff report.

Public Hearing was opened, but there being no public comment, the Public Hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council (3-0-1), with Council Member Sellers absent, and Council Member Chang abstaining, **Adopted** Resolution No. 5582, Granting An Exception to Loss of Building Allocation.*

30) REQUEST FROM INDEPENDENCE DAY, INC. (IDI) TO AMEND RECENTLY ADOPTED CITY-IDI CONTRACT

This item was taken out of order, and was heard after Item #23.

Staff report was presented by City Manager Tewes. Reported that this is a request for additional funds to cover increased insurance costs for the Fourth of July celebration.

Mr. Bruce Tichinin, President of Independence Day, Incorporated, spoke in support of this application for additional funds. He invited all citizens to attend, and informed them that they could access information at their website of www.MHIDI.com. Stated that after the events of September 11, 2001, the meaning of this celebration has deepened, but the insurance rates have also increased, requiring them to approach the Council with this request.

Mayor Pro Tem Carr asked what impact this would have on the General Fund, since this item was not budgeted.

City Manager Tewes reported that this funding would come from this year's budget, and that there is a current small positive net operating position of about \$28,000 in the General Fund, which could cover this cost.

Action: *On a motion by Council Member Chang and seconded by Council Member Tate, the City Council (3-0), with Mayor Kennedy and Council Member Sellers absent, **Amended** City-IDI Contract to add an additional \$6,092.*

31) ADOPTION OF URGENCY ORDINANCE APPROVING AMENDMENT TO CONTRACT WITH CALPERS

City Attorney Leichter presented staff report, and stated that this is an urgency ordinance to assure meeting deadline of July 1, 2002, because it affects retirement of some employees. She further explained that the motion required to accomplish this would be to both introduce and adopt this urgency ordinance.

Action: *On a motion by Council Member Tate and seconded by Council Member Chang the City Council (3-0), with Mayor Kennedy and Council Member Sellers absent, **Waived** the Reading in Full of Urgency Ordinance No. 1565, New Series.*

Action: *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council **Introduced** and **Adopted** Urgency Ordinance No. 1565, New Series, by title Only, as follows: AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY COUNCIL OF THE CITY OF MORGAN HILL AND THE BOARD OF ADMINISTRATION OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO PROVIDE 3% AT 50 BENEFIT FOR LOCAL POLICE by the following roll call vote: AYES: Carr, Chang, Tate; NOES: None; ABSTAIN: None; ABSENT: Kennedy, Sellers.*

City Council Action and Redevelopment Agency Action

OTHER BUSINESS:

32) ADOPT ORDINANCE NO. 1563, NEW SERIES

Action: *On a motion by Council/Agency Member Tate and seconded by Council/Agency Member Chang the City Council (3-0), with Mayor/Chairman Kennedy and Council/Agency Member Sellers absent, **Adopted** Ordinance No. 1563, New Series, by title Only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT CHANGING THE ZONING FROM SERVICE COMMERCIAL (CS) AND ADMINISTRATIVE OFFICE (CO) TO PLANNED UNIT DEVELOPMENT (PUD) AND TO ESTABLISH A PRECISE DEVELOPMENT PLAN FOR THE SITE. (APN 817-02-03, 04, 05, 022, 023, & 038) by the following roll call vote: AYES: Carr, Chang, Tate; NOES: None; ABSTAIN: None; ABSENT: Kennedy, Sellers.*

33) ADOPT ORDINANCE 1564, NEW SERIES

Action: *On a motion by Council/Agency Member Tate and seconded by Council/Agency Member Chang the City Council (3-0), with Mayor/Chairman Kennedy and Council/Agency Member Sellers absent, **Adopted** Ordinance No. 1564, New Series, by title Only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING OF DEVELOPMENT AGREEMENT APPLICATION DA 02-01 FOR APPLICATION MP 00-31: CHURCH - SOUTH COUNTY HOUSING (APNs 817-02-03, 04, 05, 022, 023, & 038) by the following roll call vote: AYES: Carr, Chang, Tate; NOES: None; ABSTAIN: None; ABSENT: Kennedy, Sellers.*

City Council Action and Redevelopment Agency Action

CLOSED SESSION:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant Exposure to Initiation of Litigation

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 2

2.

**CONFERENCE WITH LEGAL COUNSEL - POTENTIAL AND EXISTING LITIGATION:
CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Legal Authority: Government Code 54956.8 & 54956.9(a) & (c) (1 potential case)

Real Property(ies) involved: APN 728-31-007 & 008; 25.50 acres located on the southwesterly side of Cochrane Road (St. Louise Hospital property)

City Negotiators: Agency Members; Executive Director; Agency Counsel; F. Gale Conner, special counsel; Rutan & Tucker, special counsel

Case Name: San Jose Christian College v. City of Morgan Hill

Case Numbers: Ninth Circuit Court of Appeal No. 02-15693

Closed Session Topic: Potential Existing Litigation/Real Estate Negotiations

3.

CONFERENCE WITH LEGAL COUNSEL - REAL PROPERTY NEGOTIATOR

Legal Authority: Government Code 54956.8

Real Property Involved: APNs 773-06-008 & 009, 905 West Main Avenue, 24.54 acres

Negotiating Parties:

For City/Agency: City Manager/Executive Director; City Attorney/Agency Counsel; Director of Business Assistance & Housing Services

For Property Owners: Virginia Acton 1993 Trust

Closed Session Topic: Acquisition of Real Property

4.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Government Code section 54956.9(a)

Name of Cases (3) : Santa Teresa Citizen Action Group et al. v. Environmental Appeals Board of the United States EPA; Santa Teresa Citizens Action Group et al. v. California Energy Commission; Santa Teresa Citizens Action Group et al. v. California Energy Commission;

Case No/Court (3) : Ninth Circuit Court of Appeals, No. 01-71611; Sacramento County Superior Court Civil No. 01 CS 01830; California Supreme Court Case No. S 103019

Attendees: City Manager; City Attorney; Stephan Volker, Special Counsel.

OPPORTUNITY FOR PUBLIC COMMENT

Mayor Pro Tem Carr opened the closed session items to public comment.

No comments being offered, Mayor Pro Tem Carr closed public comment.

ADJOURN TO CLOSED SESSION

Mayor Pro Tem Carr adjourned the meeting to closed session at 8:07 p.m.

RECONVENE

Mayor Pro Tem Carr reconvened the meeting at 8:35 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Leichter announced there were 4 items for closed session. Anticipated Litigation included an item contained in an e-mail dated 8/1/01 from the Allivatos to Council Member Chang. No reportable actions.

Redevelopment Agency Action

OTHER BUSINESS:

34) MORGAN HILL CHAMBER OF COMMERCE MARKETING PLAN

Director of Business Assistance and Housing Services Toy presented staff report.

Mr. Alex Kennett, President of the Morgan Hill Chamber of Commerce (COC), and Economic Development Commission (EDC), presented a Power Point presentation to the Agency informing them of the plans that the Chamber and the EDC have put together to promote the economic and tourist industries in Morgan Hill.

Agency Member Chang stated that they had presented wonderful ideas, and she is glad they are doing this, but wanted to know if the plan includes a specified direction for economic development, and who decides this direction. She inquired if there was a provision for discussion between the City Council and the COC about economic development.

Mr. Kennett stated that the Visioning Process of the City of Morgan Hill will be used as the basis for the Economic Development Plan. This would follow the vision and philosophy already developed by the City in the General Plan. This would be the philosophical basis on which they would move forward to identify the type of development to attract to Morgan Hill. This would also involve the reorganization of the Economic Development Committee as they know it, to involve everyone in the process.

Agency Member Chang stated that the General Plan is vague on economic development; for example, it does not have a statement on what we would want for an auto mall.

Mr. Kennett responded that the hiring of the public relations firm helps them to ask the questions on how the City will grow and be developed economically, and a work plan will be developed which will be the basis for the contract with the City. They will be hiring an individual to help them design the economic development plan, and their first job will be to clarify the direction the City is going, then report back to the Council. The work really begins once this is in place. A work plan can be developed, and then they can come back to the Council, probably in January, with their results.

Mayor Pro Tem Carr opened the Public Hearing.

Ms. Laura Brunton spoke in favor of this item. She stated that she sits on the Economic Development Committee, and that there are two strong committees in the Chamber of Commerce in economic development and tourism. These two groups, combined with the membership of the COC, will help this plan to move forward.

Mr. David Peters asked the Agency to consider two questions. What other precedents exist for municipalities funding this type of work under the Chamber of Commerce guidance? And what are the quantifiable, measurable deliverables (i.e., how much business to attract and how to measure the progress toward the goals)? Stated that there needs to be measurable goals when using tax payer funds, and that he was also curious about the business incubator study.

There being no further public comment, the public hearing was closed.

Agency Member Tate stated that he had been assigned to be the Council liaison to the Chamber of Commerce in getting this plan developed, and that although he started out skeptical, he has come to be enthusiastic and to see the benefit to be gained from it. This is slated to be a marketing plan, and not a long range visioning plan, adopting the City's Vision. Because of the vacancy rate in the community, it is apparent that we do have immediate needs, and need to make a strong economic statement soon. He is convinced that this is the way to go about it. There have been a lot of people involved in the economic development and tourism discussion to make sure that all facets of the community were represented. There is a lot of enthusiasm in the Chamber of Commerce and a lot of people who want to get this going. This is a good way to get more community involvement and help without having to hire more city employees. His one concern is the five year contract, but wants to make sure that there are measurable goals so that it can be monitored as we go to make sure it is going in the right direction over the 5 year period.

Agency Member Chang asked if the goal of the marketing plan is to develop a plan to fill empty spaces for businesses. Will the marketing plan attempt to build business parks, big box places, or tourism?

Agency Member Tate stated that a lot of the types of marketing they will do is to hold the businesses we already have and get new ones in as well. The focus will be on Morgan Hill as a great place to do business and to visit. The Council/Agency can help control the direction by the policy they set. The COC is trying to be in sync with the direction of the City and to help this happen much quicker, and to bring resources to

bear that would not otherwise be brought to bear.

Agency Member Chang asked if it would not be the responsibility of the owners of the business parks to lower rent and promote their own facilities, rather than the City's job to do the promoting. She stated that rents in San Jose are lower than in Morgan Hill, and tenants will go where rents are cheaper and won't come here no matter how good the marketing plan is. She emphasized that this issue has to be dealt with by property owners.

Agency Member Tate stated that business park owners are intimately involved with this plan, and are motivated to make it work.

Agency Member Carr stated that he recognized that a lot of work had gone into this project, and he liked the idea of a partnership, but he still had questions about economic development. Before he can move forward on this decision, he wants to make sure he understands what it is that a company looks for when deciding to relocate somewhere. He recommended that the Council receive this presentation tonight, and that staff review it and bring it back to the Agency Board for their decision when all five members are present. This is an important decision that will set the direction for an important part of the community for a long time to come, and it needs to be decided by a full board.

Agency Member Tate concurred that the Board should follow the staff recommendations for this item.

Agency Member Chang stated that she liked the concept, but her main question was about our direction. Stated that perhaps business park owners should also contribute to the project, since they will benefit from it.

Agency Director Tewes stated he will research Board Member questions, analyze the report, the legal issues of the contract and the relationship with the City, and the funding issues and will report back to the Board.

Chairman Kennedy agreed with comments that had been made. Stated he believed we need a partnership of some sort, and feels that this is a well thought out plan to put such a partnership in place. Asked the staff to take a look at the proposal and come back with their perspectives on the issues before the Board makes a final decision on where to go from here. Stated he supports the actions suggested, and thanked the Chamber of Commerce for the hard work they have put into this plan.

Action: *The Redevelopment Agency* 1) **Received** Presentation on the Morgan Hill Chamber of Commerce Marketing Plan; 2) **Provided** Staff with Comments on the Plan; and 3) **Directed** Staff to Report Back Within 3 Weeks with a Recommendation.

ADJOURN TO CLOSED SESSION

Mayor Kennedy adjourned the meeting again to closed session at 9:20 p.m.

RECONVENE

Mayor Kennedy reconvened the meeting at 9:40 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Leichter announced no reportable actions.

FUTURE COUNCIL-INITIATED AGENDA ITEMS

None.

ADJOURNMENT

Mayor/Chairman Kennedy adjourned the meeting at 9:41 p.m.

MINUTES RECORDED AND PREPARED BY

MOIRA MALONE, DEPUTY CITY CLERK

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR REDEVELOPMENT AGENCY AND SPECIAL
CITY COUNCIL MEETING
MINUTES - JUNE 26, 2002**

CALL TO ORDER

Chairperson/Mayor Kennedy called the meeting to order at 6:34 p.m.

ROLL CALL ATTENDANCE

Present: Chairman/Mayor Kennedy, Agency/Council Members Tate, Sellers
Late: Agency/Council Members Chang(arrived at 6:45 p.m.), Carr (arrived at 7:10 p.m.)

DECLARATION OF POSTING OF AGENDA

Deputy City Clerk Malone certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

Agency Counsel/City Attorney Leichter announced the following closed session items.

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant Exposure to Initiation of Litigation

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 2

2.

**CONFERENCE WITH LEGAL COUNSEL - POTENTIAL AND EXISTING LITIGATION:
CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Legal Authority: Government Code 54956.8 & 54956.9(a) & (c) (1 potential case)

Real Property(ies) involved: APN 728-31-007 & 008; 25.50 acres located on the southwesterly side of Cochrane Road (St. Louise Hospital property)

City Negotiators: Agency Members; Executive Director; Agency Counsel; F. Gale Conner, special counsel; Rutan & Tucker, special counsel

Case Name: San Jose Christian College v. City of Morgan Hill

Case Numbers: Ninth Circuit Court of Appeal No. 02-15693

Closed Session Topic: Potential Existing Litigation/Real Estate Negotiations

OPPORTUNITY FOR PUBLIC COMMENT

Chairperson/Mayor Kennedy opened the closed session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Chairperson/Mayor Kennedy adjourned the meeting to closed session at 6:35 p.m.

RECONVENE

Chairman/Mayor Kennedy reconvened the meeting at 7:00 p.m.

CLOSED SESSION ANNOUNCEMENT

Agency Counsel/City Attorney Leichter announced that there was no reportable action taken in closed session.

PLEDGE OF ALLEGIANCE

At the invitation of Chairperson/Mayor Kennedy, Police Captain Carey Sullivan led the Pledge of Allegiance.

SILENT INVOCATION

Chairman/Mayor Kennedy requested that those who have lost their lives in defense of our country, including police officers, fire fighters, and servicemen be kept in thoughts and prayers.

RECOGNITION

Chairman/Mayor Kennedy presented Wanda Puder, Wayne Tanda and Bill Weber with Certificates of Appreciation for their years of service as Parks & Recreation Commissioners.

Chairman/Mayor Kennedy presented Police Captain Carey Sullivan with a Certificate of Appreciation for his dedication and years of service to the City of Morgan Hill.

Chairman/Mayor Kennedy presented Fran Hendrickson and Joan Dellamaggiore, Reach Out Program at St. Catherine's Church, with a Certificate of Recognition for a successful program that provides food to members of the community in need. He indicated that June 5, 2002 was declared the first Hunger Awareness Day. This recognition is in support and recognition of programs that support those who are hungry and in need throughout the community and the country.

Agency/Council Member Chang left the dias.

PUBLIC COMMENT

Chairperson/Mayor Kennedy opened the floor to comments for items not appearing on this evening's agenda.

Craig Van Keulen requested to recognize the Country's national men's soccer team for their tremendous success in the quarter finals of the World Cup. The team stepped up to the level of the

women's team. This is in large part to youth programs that they come from that is similarly offered in Morgan Hill. He said that his organization has already passed its registration time period and that they would not be able to pass any proposed increase onto families. The organization would like to see a plan from the School District in terms of maintenance of fields that they are now seeking to collect money. He stated that it was an honor and a pleasure to serve with outgoing Parks and Recreation Commissioners Puder, Tanda and Weber. He stated that he has known Captain Sullivan since he came to Morgan Hill, an asset of the City of Morgan Hill that will be lost.

Council Member Tate stated that the country will be celebrating the anniversary of the birth of our nation once again. In the wake of 9/11 and the way the entire nation has come together, the Fourth of July will have a special meaning for everyone this year. He invited the community to participate in the Fourth of July events, including the 5-K run/walk, to commemorate this day that is put on by Independence Day Inc., in cooperation with the City.

City Manager Tewes stated that the Live Oak High School Emerald Regime Band would not be a part of the Fourth of July Parade as they are representing the State of California in Washington, D.C. on the Fourth of July. He wished the Emerald Regime group well. He indicated that last week, the Council received a presentation from Charter Communication. He said that there has been some confusion about discounts for senior citizens for cable service. He stated that the City has a franchise contract with Charter Communications and that under this franchise, they are required to provide a 10% discount to senior citizens 65 and over without regard to income for basic service. Staff has reminded Charter Communications about this requirement, indicating that many satisfied customers have reported that they have had no trouble in getting the discount recently. He invited individuals who are having difficulties receiving the discount to contact City staff.

Mayor Kennedy stated that he just returned from the U.S. Conference of Mayors held in Madison, Wisconsin. It was found that many cities like Morgan Hill have a lot in common and have dealt with problems being dealt with by the City. He said that the City is ahead in some areas and that the City can learn from cities in other areas. He indicated that he and City Manager Tewes attended the All American Cities Conference in Kansas City to consider whether or not the City wants to apply to become an All American City, noting that it is a major effort and that it can be expensive. He indicated that he spoke with Santa Clara Mayor Judy Nadler. He said that the City of Santa Clara was designated as an All American City last year and that Mayor Nadler was positive about all the benefits that it has brought to their City. He also visited medical facilities in Peewalky, Wisconsin, specifically of an ambulatory surgery center and urgent care facility that he was referred to as a possible model for a facility in the existing hospital facility.

No further comments were offered.

CONSENT CALENDAR:

Redevelopment Agency Action

Action: *On a motion by Agency Member Tate and seconded by Agency Member Sellers, the Redevelopment Agency, on a 4-0 vote with Vice-chairwoman Chang absent, **approved** Consent Calendar Item 1, as follows:*

1. MAY 2002 FINANCE & INVESTMENT REPORT

Action: ***Accepted** and **Filed** Report.*

City Council Action

Council Member Tate requested that item 7 be pulled from the Consent Calendar.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers the City Council, on a 4-0 vote with Council Member Chang absent, **approved** Consent Calendar Items 2-6, 8, and 9 as follows:*

2. 2002-03 WORKPLAN

Action: ***Accepted** 2002-03 Workplan.*

3. AWARD OF CONTRACT TO PROVIDE PUBLIC WORKS INSPECTION SERVICES ON AN AS-NEEDED BASIS

Action: *1) **Approved** a Professional Services Contract with Testing Engineers, Inc. (TEI) to Provide Public Works Inspection Services on an As-needed Basis at a Not-to-exceed Cost of \$127,000 for FY 02-03 (Contingent on Approval of the 2002/2003 Budget), and 2) **Authorized** the City Manager to Execute the Contract.*

4. ACKNOWLEDGMENT OF NO BIDS FOR SIDEWALK, CURB & GUTTER REPLACEMENT PROJECT

Action: *1) **Acknowledged** That No Bids Were Received, and 2) **Authorized** Staff to Negotiate a Contract with a Qualified Contractor to Perform the Work per Public Contract Code Section 20166.*

5. AWARD OF CONTRACT TO PROVIDE PLAN CHECKING SERVICES ON AN AS-NEEDED BASIS

Action: *1) **Approved** FY 02-03 Professional Services Contract with Harris & Associates to Provide Contract Plan Checking Services on an As-Needed Basis at a Not-to-exceed Fee of \$120,000, Subject to Adoption of the FY 02-03 Budget; and 2) **Authorized** the City Manager to Execute the Contract.*

6. AWARD CONTRACT FOR CONSTRUCTION OF THE EDMUNDSON RESERVOIR PROJECT

Action: *1) **Awarded** Contract to Chicago Bridge & Iron for Construction of the Edmundson*

*Reservoir in the Amount of \$1,338,168.00; 2) **Approved** an Amendment to the Schaaf & Wheeler Design Contract Not-to-exceed \$83,076.00 for Construction Phase Services; and 3) **Approved** a Construction Contingency of 20% of the Construction Contract for the Edmundson Reservoir Project, Not-to-exceed \$267,600.00.*

8. EXTENSION OF CONTRACT FOR CONSULTANT PLANNING SERVICES

Action: ***Authorized** the City Manager to Execute an Extension to the Consultant Services Agreement for Contract Planning Services at a Cost Not-to-exceed \$15,000.*

9. UTILITY BILLING SOFTWARE PURCHASE AND INSTALLATION

Action: ***Authorized** the City Manager to Execute a Contract for a New Utility Billing Software System with Incode, Inc. in the Amount Not to Exceed \$110,000.*

7. AWARD CONTRACT FOR CONSTRUCTION OF 2002/2003 TRAFFIC SIGNALIZATION PROJECT

Council Member Tate indicated that he understood the report but that he did not understand how the projects were grouped. He stated that he is aware that one project is not being completed this year: the Tennant and Highway 101 intersection. He did not understand where the Condit Road/East Dunne Avenue portion was proposed for completion (e.g., this fiscal year or another fiscal year).

Director of Public Works Ashcraft responded that the three projects are being awarded this fiscal year are: Condit/Dunne, Hill/Dunne, and Diana/Butterfield to be built within the next 90 days. The staff report explains that the next project, Highway 101/Dunne, is also funded this year but that the design is behind schedule as it has to be approved by Caltran. He said that the design will go out to bid two to three months later, followed by award of contract.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Chang absent: 1) **Awarded** Contract to GAB Construction for Construction of the 2002/2003 Traffic Signalization Project in the Amount of \$456,000; and 2) **Approved** 10% Construction Contingency in the Amount of \$45,600.*

PUBLIC HEARINGS:

City Council Action

10. APPEAL OF SUBDIVISION APPLICATION SD 01-04: MCLAUGHLIN-JONES

Mayor Kennedy noted that there is a request to continue this item. He opened the public hearing for this item. No comments were offered.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **Continued** the public hearing to July 17, 2002.*

Council Member/Vice-chairwoman Chang resumed her seat on the dais.

Redevelopment Agency and City Council Action

11. PUBLIC HEARING FOR ADOPTION OF FISCAL YEAR 2002-2003 BUDGET – Resolution Nos. 5589 and MHRA 241

City Manager/Executive Director Tewes stated that the budget being presented is based upon policy guidance given to staff by the Council earlier in the year when staff first brought to its attention the adverse effects that the economic recession and 9/11 were having on local revenues. He stated that it became necessary to cut back spending this year and that staff proposes that the City take advantage of the reserves for economic uncertainty. However, staff believes that the City will end this year roughly balanced. Next year, in the face of increasing costs, including labor negotiated contracts and continued sluggishness in the revenues, the budget being proposed has an operating deficit of approximately \$262,000. The budget proposes to dip into the reserve for economic uncertainty next year to this amount. He noted that the Council established these reserves to even out spending patterns so that when the City is in good times, the City does not staff up to the higher level only to learn that the next year the City would need to cut back. He said that use of the reserves helps to moderate the impacts and would provide some certainty and stability for the community. Based on prior workshops, staff has made some modifications to the budget and that the Council has been provided supplemental information. He stated that the effects of the State's budget on local budgets are unknown at this time. He said that cities are pleased that the Governor is not proposing to balance the States' budget on the backs of cities, noting that the State's budget has not yet been adopted. He indicated that the Council has in place policies and that it is his understanding that the Finance & Audit Committee (Committee) will be recommending other policies this evening that provide for constant monitoring of the budget so that mid course corrections can be made as the year proceeds.

Finance Director Dilles presented the staff report and indicated that proposed revisions to the budget are summarized in attachment A to the staff report. He informed the City Council that the Committee discussed whether it was appropriate to present a budget that shows more expenditures than estimated revenues for next fiscal year in the amount of a \$262,000 deficit. He indicated that the City does have \$10+ million in reserves. He stated that the Committee is continuing to look at the City's reserve policies and that they should be bringing recommendations back to the City Council soon regarding the types of reserves the City should have, how much reserves should be in place, how the reserves are to be used for, and how the City plans for the future. He indicated that a supplemental handout was distributed this evening from the Committee, comprising Mayor Pro Tempore Carr as chair, Council Member Tate, and Mike Roorda, City Treasurer. The Committee considered the fact that the City has some vulnerability or risk that the State may take additional monies from cities. The Committee came up with three recommendations as listed in the supplemental report from the Committee. He indicated that two resolutions are before the City Council that would: 1) adopt the City's budget and approve the City's appropriations limits, and 2) adopt the Redevelopment Agency's budget. He pointed out that the City's appropriation limits continue to be very high so that the City is not constricted in terms of the size of the budget that the Council can adopt.

Mayor Pro Tempore/Agency Member Carr indicated that at the last Committee meeting, concerns were raised with the fact that there is a small deficit predicted in the budget and how it should be dealt with. Open discussions were undertaken by staff, the City Manager, City Treasurer and the Committee to talk about the possible impacts to the City to see if there was a way to achieve a zero sum budget. It was noted that cuts would need to be made. Also, discussed were the strong reserves in the General Fund and how best to utilize the reserves in order to avoid cuts for the citizens of Morgan Hill. It was felt that it was prudent to move forward with the existing budget and not open it up and look at ways to perform line item cuts to try to make up the \$262,000 deficit. The Committee will be establishing goals for managing the budget in working with the Council, staff and the Committee to try to make up the \$262,000. The Committee took a look at the spending patterns of the Council and the additional general fund expenditures that it has approved over the past year in the amount of approximately \$650,000. In tough economic times such as this, he felt that the Council needs to be fiscally prudent when budget adjustments come before the City Council. The Committee has asked staff to help them when the Council is considering additional expenditures and that the City think about those in terms of the entire general fund. The Committee does not believe that these expenditures should be considered in a vacuum but on their merits in respect to the entire general fund. The Committee also felt that there should be a higher level of oversight of the budget adjustments and the levels of reserves. It was felt that the Committee should, on a regularly basis, oversee the tracking of the budget adjustments and reserve levels. The Committee would bring any flags raised to the City Council. He indicated that the Committee put together a recommendation in the memo before the Council.

Council/Agency Member Tate stated that the Committee looked at three ways of bringing the deficit down to zero: 1) instruct the City Manager to bring the budget down to zero and present a budget that contained no deficit; 2) staff to be directed to manage the budget as it goes along throughout the year, making sure that the budget is brought down to zero; or 3) as the year goes along, staff to do everything that it can to bring the budget down to zero. However, it was felt that opportunities many not come along that would allow staff to balance the budget. The Committee changed its report slightly this morning to state that the Committee would like staff to manage the budget down to zero but understood that it may not to be possible because it would result in drastic actions being taken.

Council/Agency Member Sellers noted that staff was able to reduce the Fiscal Year 2001-02 budget by 5% and that he was positive that staff would do everything that it could to find reductions. He wanted to make sure that the City Council is not in a position where it is telling staff to try to do more with less. He inquired whether the Committee was recommending that staff find possible reductions but not in a way that would limit, alter, or diminish the scope of work set by the Council?

Mayor Pro Tempore/Agency Member Carr felt that it was important that within the language of the recommendation that the reductions not be absolutely mandatory, instructing the City Manager and staff to find ways to make up the \$262,000 deficit, but that it not be absolutely mandatory.

Mayor/Chairman Kennedy thanked the Committee for their work. He felt that the Committee did an excellent job in laying out alternatives and putting together recommendations. He thanked City Treasurer Mike Roorda for his contributions as a member of the Committee.

Chairperson/Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Mayor/Chairman Kennedy noted that this is an \$86,662,958 budget and is \$15.9 million less than last year's overall budget. The budget includes 37 specific projects and programs over and above the ongoing programs (e.g., police/fire services, street maintenance repair, planning, building, recreation, flood protection, etc.). He stated that this is an aggressive budget and that the City has a lot of activity taking place. He indicated that the City may have to use some of the reserves set aside for economic uncertainty. He felt that it was appropriate to rely on these funds now that the City is faced with a drop in revenues (e.g., Transient Occupancy Tax) that have impacted the General Fund revenues. He stated that he was supportive of the budget, as presented, and that he was pleased to see the recommendations that the Committee put together.

Council Member/Vice-chairwoman Chang noted that the Committee's recommendation is to direct the City Manager and staff to manage the budget in a manner that will allow the City to achieve a savings of \$262,000. She stated that it was mentioned that this recommendation was not mandatory and inquired as to its meaning.

Council/Agency Member Tate stated that the Committee reviewed three alternatives in handling the budget deficit. One alternative requested that the City Manager balance the budget in advance. This alternative was ruled out. The City Council could tell the City Manager to manage the budget to zero as the year goes along. The City Manager could get to the eleventh month with opportunities for savings presented. The City Manager would then have to make the decision on where to cut. He noted that Council/Agency Member Sellers did not want to have this kind of control over staff to rule on where cuts are to come from. He said that cuts may not be able to be made without making cuts in services that the City cannot afford to make. The Committee felt that in this case, it would be acceptable to go into the economic reserve so that the Council is not insisting that the budget be brought down to zero, but making it a high goal to bring the budget down to zero. The Committee felt that the City will see the deficit reduced and that the Committee will be tracking the budget closely as the year moves along. The Committee will work with the City Manager and staff on achieving a zero budget, but not mandating it.

Council Member/Vice-chairwoman Chang expressed concern with the budget. She indicated that she is grateful that the Committee took her concerns seriously. She was sure that the City Manager would be able to manage the budget to the level that the Council believes that he can. She stated that she did not like the deficit included in the budget. She noted that the General Fund grew 65% from \$8.5 million to \$16 million in the last five years. The Committee addressed the issue of mid year adjustments that occurred last year and the State's budget. She stated that she has a different view point about the reserves. It has been stated that the reserves should be used for rainy days. She felt that it is only a cloudy day at this time and that on a cloudy day, the City should start with a balanced budget. If it is a rainy day, she would agree to use the reserves. She expressed concern with a \$300,000 deficient and a \$2.5 million exposure. This is the reason she is insistent on getting to a balanced budget. However, she stated that she would support the recommendation as she has full confidence in the Council Members, the Committee, the City Manager and the accounting staff.

Council/Agency Member Sellers stated his appreciation of the work and recommendation forwarded

by the Committee. He extended his appreciation to Council Member/Vice-chairwoman Chang for raising a lot of the issues early on. He felt that concerns raised by the Council/Agency as well as those raised by Council Member/Vice-chairwoman Chang were dealt with by the Committee in a prudent way. He felt that this is a good budget and that the City is at a point where it has a lot going on and that the City will be able to get the work done. He appreciated the fact that staff is willing to do what it can to reduce the budget. However, he felt that it was important that the Council make sure that staff has the resources to accomplish identified goals.

Mayor Pro Tempore/Agency Member Carr stated that the Committee spent a significant amount of time on the budget. He felt that this budget, combined with the recommendation from the Committee, makes the management of the budget a partnership between the Council and staff. He said that the Council/Agency will be asking the City Manager/Executive Director and staff to manage things in a certain way but that the Committee will oversee the tracking of the budget. He felt that there would be difficult decisions to make and that this is the reason Council members were elected. He said that the Committee has put together a recommendation about a good budget, one that would help the City achieve its goals and meet the needs of the community in ways that the City can manage the budget to make sure that it is fiscally prudent in these difficult times.

Mayor/Chairman Kennedy indicated that the Committee was created in 1991 or 1992 to work closely with staff to aggressively track a budget and to keep the Council apprized, on a frequent basis, as to what is going on and offer suggestions, using the combined talents and resources of both the Council Members and staff. He was pleased that the Committee has presented a recommendation to the Council as it has accomplished the exact reason why this Committee was put in place for.

City Council

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Approved** Resolution No. 5589, Adopting the Fiscal Year 2002/2003 Annual City Budget and Adopting the Appropriations Limit for Fiscal Year 2002/2003.*

Redevelopment Agency

Action: *On a motion by Agency Member Sellers and seconded by Agency Member Tate, the Redevelopment Agency unanimously (5-0) **Approved** Resolution No. MHRA 241, of the Redevelopment Agency of the City of Morgan Hill Adopting the Fiscal Year 2002/2003 Annual Agency Budget.*

City Council

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Approved** the Capital Improvement Plan.*

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Carr, the City Council unanimously (5-0) **Adopted** the recommended actions of the Finance and Audit Committee.*

City Council Action

12. ADJUSTMENTS TO DEVELOPMENT IMPACT FEES

City Manager Tewes stated that impact fees are not pro growth or anti growth, slow growth nor has anything to do with the pace of growth. When established at an appropriate level, development impact fees ensure that whatever growth occurs, it will not increase the burden on the existing community for public facilities. He indicated that all members of the General Plan Committee understood that following the adoption of the general plan, the City would be going through a comprehensive study of impact fees. He stated that the Council heard testimony during the general plan hearings from members of the community urging the Council to get underway with the impact fee study. Over the past two years, the City has negotiated development agreements with several major commercial developers. Issues included discussions about the potential for increases in impact fees. He said that the Measure P subcommittee is anticipating impact fees changing and will be recommending changes to the criteria to address the effect of the interactions between impact fees and Measure P commitments. During the Redevelopment Agency workshops on how to allocate RDA funds, the Agency/Council made choices based on whether the cost of growth would be allocated among new growth and the existing community. He stated that staff recognizes that impact fees have an economic effect on the cost of development. Unlike other factors that impact the cost of development, impact fees are not set by the market system but are the result of a regulatory and political process. He indicated that fees must be established in accordance with law and that AB1600 sets forth the standards that must be used in establishing fees. The Council must make policy choices about how the cost of growth is to be allocated. He recommended that the Council hear staff's presentation, noting that staff is not asking the Council to make a final policy decisions this evening. Staff further recommends that the Council continue the public hearing to July 17, 2002 at which time, staff hopes that the Council will be prepared to make decisions. He said that it would be helpful, following the presentation and public hearing, if the Council would give staff direction on any issues it would like researched or analyzed. Staff would return on July 17 with the additional information.

Finance Director Dilles presented a power point presentation on development impact fees and the reason they are necessary. He stated that impact fees total \$20,846 for a single family home and \$16,997 for multi-family. He said that proposed impact fees would go up almost 54% for single family homes. He stated that the price of a home in Morgan Hill has gone up from \$280,000 in 1995 to \$533,000 for the first four months of this calendar year. During this period, impact fees have gone up from \$12,265 in 1995 to a proposed \$28,046 (70% increase). He indicated that impact fees would not go up as much as housing values have. He presented comparison impact fees from other cities. He indicated that staff met with developers on several occasions and that these meetings gave staff the opportunity to talk about issues and concerns that developers had. He said that developers were provided with the impact fee report in early May. Staff received comments in the area of calculation issues (e.g., have impact fees been calculated correctly, including credit from other revenue sources, administration and implementation, timing policies of the impact fees.) Also, discussed was use of the park fees based on population and the formula used for the community and recreation center, noting that these two fees are new ones calculated in the consultant's report. Staff is not recommending that these two fees be adopted at this time as it was found that most of the projects are funded by redevelopment. It is staff's belief that more facts need to be gathered. Therefore, staff recommends that it return to the City Council within a year with more information about the need and dollar costs for the sports complex/sports field.

Mr. Dilles indicated that concerns were raised by developers regarding open space and Measure P fees. Staff looked at this issue closely and that it was found that the City does not need to implement an open space fee at this time as the City is generating sufficient funds from the Measure P program for the same purpose. He said that Library fees have been placed on hold based on the fact that the City has applied for Proposition 14 funding and that staff is waiting to hear back on the application. The results of the application would be a major factor on what the City would do with library impact fees. Questions were raised by developers about projects already in the pipeline and moving forward. Staff is recommending that the City grandfather all currently allotted Measure P projects by allowing fee prepayment prior to the implementation date. Developers would be able to pay existing fees versus the increased fees if paid prior to the implementation date of January 6, 2003.

Mr. Dilles stated that if a commercial/industrial developer submits a complete set of building plans for plan check and prepay impact fees prior to January 6, 2003, staff would allow developers to pay existing fees. Staff is not recommending or proposing changes to the existing park fee credit system program. He noted that Measure P contributions are not AB1600 fees as they are voluntary contributions and earn points for development as they go through the Measure P process. He stated that increased impact fees are being recommended as the fees have not changed in the past seven years and costs have increased substantially over this time period. The need for public facilities has increased significantly. Therefore, new development is not paying its fair share of needed infrastructure. By updating the fees at this time, the City establishes some certainty. He addressed alternatives to not increasing impact fees. He stated that staff is recommending that the public hearing be continued to July 17, 2002, at which time, staff will be asking that the Council to adopt all proposed impact fees, except open space and recreation facilities, no change to the library fees, delay implementation of new fees until January 6, 2003, and direct staff to continue evaluating fees for the library, community and recreation centers and open space fees. He informed the City Council that staff would be revising the ordinance and resolution prior to the July 10, 2002 meeting, noting that the ordinance would be introduced at the Council's July 10 meeting. He informed the Council that the consultant, Joe Hogan from Maximus, was present to answer questions that the Council may have.

Mayor Kennedy inquired what start date in collecting impact fees was assumed in calculating the fees?

Finance Director Dilles responded that the cost of the project is not a function of timing. Timing becomes important because you have existing customers, existing development and future development. He said that it was his belief that the line was drawn at the beginning of this fiscal year.

Joe Hogan, Maximus, stated that it was his recollection that development was reckoned as of the beginning of the calendar year not knowing when impact fees would be adopted/effective. As the study progressed, a time line had to be assumed, drawing a line between existing and future development. It was his belief that a January 2002 date was selected.

Mayor Kennedy stated that should the Council elect to phase in impact fees, it would be assumed that there would be a net loss and that the City would not be able to collect enough fees to pay for the identified projects. He said that it was important to know the assumptions that the impact fees

were based upon.

City Manager Tewes indicated that the amount of loss revenue would be a function of whatever the phasing schedule is and how much development would have occurred. If little development occurs, the City would not have collected the fees at either higher or lower rates. He clarified that the City would not be able to make up the loss at a later date because it would be unlawful to charge future development for impacts that should have been paid by prior development.

Mr. Hogan addressed the question about the rate of development. He stated that he avoided making assumptions about the timing of development in calculating the fees. He looked at all development that would be possible within the urban growth boundary given the General Plan and, in most cases, looking at all facilities needed to serve this amount of development. He indicated that fees were calculated in current dollars with a recommendation that they be escalated over time in order to maintain a correct relationship with inflation. He stated that timing of development only enters into the equation based on how much development has occurred before the fees would take affect.

Mayor Kennedy noted that City Manager Tewes pointed out that the actual development of housing, commercial and industrial projects that bring in the fees would have to assume some sort of time schedule and number of projects to determine what the impact fees are going to be.

Mr. Hogan clarified that it was assumed that there is a certain amount of development potential left in the City in looking at the General Plan. He worked with the Planning Division to determine how many dwelling units could be built in the future within the urban growth boundary, including commercial/industrial development. He allocated the cost of all public projects to all development, regardless of when it occurs. This was calculated in current dollars. Therefore, the calculation of fees does not depend on when development occurs. He said that this relationship is self correcting as it does not change. It was his belief that the front end phase-in would affect the City's revenue projections.

Mayor Pro Tempore Carr inquired if it is being stated that there is an escalator based on inflation that is added to impact fees and whether the fees would be adequate for the life of the General Plan?

Mr. Dilles responded in the affirmative based on what staff knows at this time. However, staff would review this every five years and tweak, as deemed necessary.

City Manager Tewes noted that one of the recommendations coming out of the report is that the impact fees be updated more periodically than once every seven years (e.g., every five years). Regarding AB1600 and its regulatory requirements, in theory, if the engineering news record index exactly equals the increases in cost to be experienced over the succeeding years, the fees would be adequate for the general plan build out. However, past experience has shown that the engineering news record index is only a close approximation of the actual increase in cost.

Mayor Kennedy opened public hearing.

Jennifer M. Cloonan, Associate Director of the Home Builders Association of Northern California, indicated that the Home Builders Association and the Morgan Hill Chamber of Commerce are

jointly requesting a continuance on the impact fee hearing. She said that the membership is in the process of putting together a list of priorities that address the following: 1) What are the immediate needs of the Morgan Hill community? 2) What can be held off until the economy improves? 3) How can these increases be phased over time? Through a dialogue of these concerns, she stated that it is intended to put together a joint recommendation for Council consideration on the proposed fee increases.

Sunday Minnich informed the Council that the Morgan Hill Chamber of Commerce's Economic Development Committee and the Home Builders Association held a joint meeting with commercial, industrial, and housing developers to discuss the proposed changes to development impact fees. It was felt that the proposed changes are for the betterment of Morgan Hill. She felt that the City has wonderful development partners that want to pay their fair share and want to see the improvements completed. The question is "what is their fair share." It was felt that this is very unfortunate timing with the downturn in the economy. To implement the fees at one time would stifle economic development for business attraction and new business development. Also, feared is negative publicity that Morgan Hill is not opened for business. She indicated that a subcommittee was put together to talk about the items identified by Ms. Cloonan. The subcommittee is proposing to bring a joint recommendation to the City Council on July 17. She therefore supported a continuance.

Bruce Myers, Pacific Union Homes, thanked staff for the opportunity to participate in the impact fee update process as this is not an opportunity afforded by other communities that he deals with. He said that Pacific Union is currently building a project on East Dunne Avenue, purchasing the property on January 2001. In his case, the chart shown regarding comparison of prices in 1995 to date is a little misleading as he does not have this value because it has been absorbed in the price paid for the land. He indicated that he has full Measure P allocation for his project and that they extend through 2004. Normally, you anticipate increase in fees over time, noting that Union Homes is willing to pay its fair share of fees as building occurs. He said that he was anticipating a 2-4% increase with the cost of living or inflation. He said that a 54% increase is a bigger impact to his development, especially in a market like this where you cannot pass the cost onto potential homebuyers. He said that normally, fees are fixed at the time you pull a permit. As he will be building into 2004, he would not be pulling all building permits by the end of 2002. He appreciates the recommendation of being able to prepay fees as it will help. However, he appeared before the City Council a couple of months requesting an extension to his project. It may be possible that he would be doing so again, depending on sales and how the project progresses. He requested that should the Council approve the prepayment of fees that they be fixed at that time.

Bob Dwyer, commercial developer, acknowledged that it is a tough market at this time. He noted that industrial parks pay assessment bonds. He said that commercial and industrial developers are not opposed to pay their fair share. He requested that impact fees be phased in over a period of time. He said that in the commercial and industrial arena, they have had development fee impacts, especially traffic impact fees since 1996. He indicated that he has a neighbor who is occupying space who has never paid fees and is still in a shell condition. He recommended that the City collect back fees from those who have not paid fees.

Gaye Quinn, Venture Corporation, owners/developer of Morgan Hill Ranch, indicated that she is also a member of the Chamber of Commerce's Economic Development Committee. She was

supportive of their request for a continuation to look at additional alternatives. She said that her firm believes that this is a critical issue at a very critical time. It is felt that the increase in fees being proposed will not only effect new buildings but would also affect vacant inventory. She said that the negotiations that Venture Corporation is undergoing are tough as there are very few tenants for the buildings that exist. She said that the timing of increasing impact fees could not have been worse for commercial and industrial development. The experts expect the economic downtown to last at least 3-5 years. She said that commercial/industrial developers have lost their competitive advantage that use to be enjoyed in Morgan Hill based on an overflow from San Jose and Silicon Valley. Morgan Hill had prices that could compete easily with the prices being charged to the north. Given the glut of vacant space that currently exists, Morgan Hill no longer has the advantage. She is finding it difficult to market development. The proposed fees would kill some of the deals that she is working on. Venture Corporation is anxious to work with the Chamber of Commerce and staff to come up with alternatives that could phase the programs and/or provide alternatives in looking at the methodology and cushioning some of the assumptions that Mayor Kennedy mentioned earlier.

Carolyn Hipp, Warmington Homes, requested that the Council consider phasing or increasing fees over time. As a developer, it would provide an opportunity to balance an economic increase, working with the fee increase without having to compromise the product of the homes and without having to increase the prices of the homes dramatically to offset the fees. Regarding the ability to pay the building permit fees in advance of the implementation of the fees in January 2003, she indicated that her project is allocated through 2004. Therefore, she would not be eligible to pull permits for the 2004 permits by January 6, 2003. Her development agreement would preclude this and indicated that she would not have a final map approved by then. She noted that the current proposed park fee is doubling and would quadruple the parks fees for those developers who have made Measure P commitments to pay double in lieu fees to get more points in the scoring criteria. She wanted assurance that in the park fee credit program and the reimbursement program that she is currently eligible for that it contains the land valuation at the \$400,000 discussed this evening (include land and improvement values). She is uncomfortable in terms of the Measure P contributions that are specific to the CIP program and the storm drain fund. The fees equate to approximately \$1,000 per dwelling unit for both the CIP and storm drain fund. They would be applied and applicable to a discretionary capital fund. Therefore, they do not fall within the AB1600 and would not be considered a part of the additional revenue as it relates to the need to increase impact fees. She requested that the Council look at the discretionary capital fund and see if there is any amount that could apply from the Measure P contribution as an offset to the storm drain fee increase.

Dick Oliver, Dividend Homes, speaking on behalf of himself and not other developers at this time, noted that building permit fees are also being increased substantially. He suggested that staff come back and discuss the feasibility of staging fee increases over a three-year period. He appreciates the opportunity to prepay before January 2003. He said that approximately 40% of the fees are paid at time of filing a final map and that approximately 60% are paid at occupancy. He inquired whether 100% will be required or the 40%? This amount needs to be known so that the City will know the impact and the developers can comment appropriately. In his letter to the Council at the last work session, he requested that in the credits available in the park fees, if a developer dedicates land to the City for a park, that 100% of the cost be refundable up to the amount of the park fee. In his particular case and that of the Borello family, he has a general plan designation of a four-acre

neighborhood park by Peet and Cochrane. The number of units to be generated will absorb approximately \$400,000 and that he would be dedicating \$1.6 million worth of land to the City. He loses the value of the difference that would equal \$1.2 million, equating to 300 homes that he gets no credit for. He said that his project would offset other fees that others do not pay. He requested that the excess over and above the amount that he would pay be applicable to any other project that he or the Borello family have that are located within one quarter mile from the park.

Rocke Garcia, Glenrock Builders/Shea Homes, thanked staff for acknowledging the direct connection between Measure P and the fee increases. He appreciated the comments expressed by Ms. Hipp and Mr. Oliver relating to the park fees as this is the greatest number in the proposed fee increases. He stated that developers are willing to pay their fair share. However, when you look at the overall picture of Measure P, especially if you pay the double park fees and, in his case, exceeding the Quimby Act by more than 50%, some consideration should be given on how you determine this particular fee for Measure P projects.

No further comments were offered.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the Council unanimously (5-0) **Continued** the public hearing to July 17, 2002.*

City Manager Tewes clarified a few of the issues raised this evening. He said that the Council would be receiving a recommendation of phasing-in to address the issue of stranded costs as some individuals have already made deals and therefore cannot push costs forward or backwards. He stated that it is staff's proposal to allow prepayment of fees to address this issue. He said that phasing in is an alternative approach to the same issue and is not a supplement. Staff was suggesting that the City would allow prepayment of fees even though a project had not yet reached the building permit or certificate of occupancy stage to lock in existing rates, if desired. Staff would be happy to return with more clarification about the policies as requested by Mr. Oliver on July 17. With regards to what happens to dedications, staff would return on July 17 with a recommendation as previously discussed with Mr. Oliver.

Mayor Kennedy stated that there was an issue that came up with a project several years ago regarding the timing of the payment of impact fees. He recollected that when Council Member Cook was on the Council, she advocated payment of fees at the time of the issuance of building permits.

Mr. Tewes indicated that the law does not permit the City to require fees to be paid earlier than the certificate of occupancy for residential projects.

Director of Public Works Ashcraft clarified that in earlier days, the City would collect commercial and industrial impact fees at time of occupancy similar to that of residential fees based on law. Staff later decided that all impact fees should be collected at time of issuance of occupancy permits. This is not in accordance with City code. City code requires collection of impact fees at time of building permit issuance unless there is another law that states that the City should do something different, noting that there is for residential. When Council Member Cook raised the issue, the City began to collect all impact fees for commercial and industrial at time of building permit issuance. City law stipulates that all fees are to be paid at time of building permit issuance. If a commercial and

industrial buildings are built and the occupant is known with the installation of all improvements, then the City collects all fees when the permit is issued. There are some buildings that only have a shell and therefore, few of the fees such as wastewater and traffic that cannot be calculated until the tenant is known.

Council Member Tate felt that the City waited seven years before increasing impact fees. Now, it is being recommended that the fees not be raised again for another five years. He said that phasing in of fees is one concept of phasing but felt that there was a more basic issue of phasing. He recommended that fees be increased every year so that there is a continuation in terms of fee increases along with the cost of living. This would result in dollar cost averaging and would make practical sense to look at increasing fees on a regular basis.

City Manager Tewes said that one of the things that staff is suggesting is to provide certainty to the development process. If the fees are changed every year significantly, staff would not be providing certainty. He said that there are deals being worked out by land owners and home builders as well as commercial developers and tenants. They do not always come in together in nice one year increments. Therefore, developers need certainty, over a development cycle, to predict them. He stated that the City does have built in adjustments. He said that annual adjustments would be conducted for an index of construction costs. Staff is not proposing to go through a study similar to this one each year to analyze costs.

Council Member Tate recommended that the City consider looking at a continuous phased basis, looking either backwards or forward.

Mayor Kennedy inquired if it would be possible to perform a cash flow analysis of when development occurs, when the project that is proceeding, and when project funds are needed for city facilities?

Mr. Dilles stated that staff can estimate the cash flow projected to come in each year but that he did not believe that this is what will drive how the fees are set. He clarified that fees are set based upon what it costs to build the projects and how much of this benefits the new growth, looking at the demand factor to come up with a unit cost. He stated that the process does not look at when you will build but what it will cost to build. He said that AB1600 drives this.

City Manager Tewes said that cash flow is absolutely critical to the City Council's budgetary decisions which is a separate matter from adopting the fees. However, the City Council does make budgetary decisions about which capital projects to commence. If the City is going to get advise about which projects not to begin, the City Council would need to go back to the General Plan. He stated that the impact fee program is a comprehensive program and that absent a comprehensive fee program, it would require the City look at each and every individual project and in some instances, decide that they cannot proceed until a major facility is constructed. Projects cannot proceed unless that individual development pays the cost of the major facility in the hope of reimbursement at a later date. By adopting a comprehensive fee program, the impacts of any individual project are met by simply paying the fee. It is the Council's decision of which priority projects are to proceed.

Mayor Pro Tempore Carr referred to the comparison table among municipalities. He noted that the

table showed clearly that in dollar figures, the City may not have the highest fees. However, Morgan Hill was the largest in a number of categories in which fees were charged. He requested that staff provide information as to how other municipalities pay for their improvements such as other forms of tax or assessments. He said that although some municipalities may have lower impact fees, they may have other means of taxes to help pay for the same impacts.

Mr. Dilles agreed to research and provide Council with this information.

City Manager Tewes noted that some cities have voter approved general obligation bond measures for police and fire facilities.

Mayor Pro Tempore Carr noted the prepayment proposal that staff has come up with gives developers a six-month time line to prepay. He did not know if this was enough time or should the City give a longer prepayment time for projects that currently have Measure P allotments and whether the City should give existing commercial and industrial buildings additional time to prepay? He felt that this information would be helpful. He felt that the knowledge of loss of dollars would also be important to know.

Mr. Dilles said that staff was trying to give some time to allow prepayment, realizing that the further the prepayment is pushed back, the fewer dollars come in. Long term, there would be less money to build the facilities for that portion that benefits growth.

Mayor Pro Tempore Carr noted that a question was raised about a clarification on prepayment. It was indicated that some fees are paid at final map and some are paid at occupancy. When talking about prepayment, is staff talking about all of the fees or just the fees that are due at final map? He noted that the staff report indicates that if time extensions are subsequently granted to projects then additional impact fees would be due. He noted that almost every project comes before the Planning Commission and City Council for extensions because it seems to be difficult to move forward with a project in the first year. He recommended that fixing of fees be set for prepayment purposes instead of the increase.

Mr. Dilles stated that with regards to residential, all fees would be paid at the same time. With commercial and industrial development, you may not necessarily know who the ultimate tenant will be. Therefore, you would not know what the traffic and sewer fees would be as they would be difficult to calculate without knowing whom the tenant will be. Mr. Dilles stated that staff was not proposing any exceptions.

Council Member Tate expressed concern about the shell versus the final tenant improvements and the fact that traffic and sewer impact fees are not paid until the final tenant improvements are completed. It was indicated that the City of Morgan Hill is in a battle with other communities for attracting companies to the community. He felt that the City is impairing this without certainty because fees are unknown and deals are under negotiations. He recommended that the fees be fixed for the current shells as they are now and exempt them in order to allow developers to compete in attracting new businesses to the community. He felt that the highest economic priority should be to fill the buildings that are sitting empty. He recommended that this be a concentrated effort. He expressed concern with the recreation fee that is not being recommended at this time. He said that

the City is in a situation where it has fully funded an indoor recreation facility and not funded an outdoor recreation facility; a concern to him. If it is the intent to fund the outdoor recreation facility, then he was not sure why the City is holding off on collecting these fees. He felt that as an alternative, the indoor facility should not be fully funded, spreading out funds. However, he noted that the Council has agreed to fully fund the recreation center. He was hoping that the Council would be putting in place, sooner rather than later, where the City would be betting the funding for the outdoor recreation facility which he considers a high priority.

Council Member Chang stated that it was her understanding that a recommendation would be returning to the City Council on July 17, 2002. If there is to be a phasing proposal, she requested that a comparison of the monies be provided (the impacts of implementing it now or implementing it on January 6, 2003). Mayor Kennedy concurred with this request for information.

Council/Agency Member Sellers excused himself from the remainder of the meeting.

13. ADJUSTMENTS TO USER FEES, SERVICE CHARGES, AND MISCELLANEOUS UTILITIES FEES

Finance Director Dilles presented the staff report. He stated that staff is proposing, in the area of planning fees and engineering fees, that these increase approximately 20% versus the larger percentage calculated for full cost recovery at this time. Staff is also proposing that the building fees be tied to the 1997 Uniform Building Code as they are currently tied to the 1991 Uniform Building Code plus 8%. Staff is partly proposing that the City only implement approximately 20% for Planning and Engineering at this time as the City is undergoing a development audit. The City will have more information following the audit to tell the Council if it can be more efficient in how it provides services or somehow do things differently. Staff believes that this is an important component to consider when it comes back to the Council with recommendations for possible further adjustments at a later date. He recommended that the fees be implemented September 17, 2002 which would allow for a 60-day waiting period in order to implement development fees. All applicants who file complete applications by September 16 would be allowed to pay existing fees at building permit issuance. This would allow the City to recover its fees on an ongoing basis on a full cost recovery except for planning and engineering. If the limited fee increases proposed for planning, building and engineering are not adopted, it would be necessary for staff to recommend that the Council adjust the community development budgets that are contained in the recently adopted budget. Staff recommends that the Council open the public hearing and continue the public hearing to July 17, 2002. Staff would return to the City Council with an ordinance to be introduced on July 10, to get it into the process following tonight's comments.

Council Member Chang inquired whether the Recreation Facility fees would be brought back on July 17? Mr. Dilles responded that this would be brought back on July 17 as part of the public hearing. He noted that under agenda item 14, it does not set the fees but addresses the methodology of the procedures for collecting fees and classifying different types of users of the park facilities.

City Attorney Leichter indicated that staff needs to look at whether the City needs to amend its recreation fee ordinance in order to encompass the new fees, thus, the reason to bring proposed fees back to the Council on July 17.

Mayor Kennedy noted that staff has four recommended actions. The first action is to continue the hearing to July 17, noting that the third recommended action is to introduce the ordinance.

Mr. Dilles informed the Council that staff is not recommending that the ordinance be introduced this evening.

City Attorney Leichter advised the City Council that staff would prefer to bring back the ordinance and the resolution to the Council. Depending on the Council's comments this evening, staff may need to amend one or both of these documents. She indicated that three ordinances would be introduced on July 10m and adopted on July 17.

City Manager Tewes informed the Council that staff would return with the ordinances and resolutions and that staff is not asking the Council to take definitive actions this evening in terms of setting fees.

Mayor Kennedy opened the public hearing.

Dick Oliver requested that the implementation be made November 1 instead of September 1 as it is difficult for developers to submit plans by the September 1 date. It was his hope that developers would be allowed to submit complete applications, noting that there are some applications that cannot be filed unless a final map is recorded. He stated that his application has been delayed by eight months by the EIR processing. As long as he can submit the applications even though the final map is not recorded would be appreciated so that he can pay the fees. He stated that he has three projects that he has been working on. He noted that he has four final maps that he has processed for the Mission Ranch project. By the time the project is completed, he would have between 12 and 14 final maps. With regards to the Coyote Ranch project, he has six final maps to date and would have 10 to 12 final maps by the time the project is completed. By the time these two projects are completed, he would have had to file and compete in 15 Measure P applications. He felt that it is misapplying staff time, it is inefficient and is costly to him. He felt that there has to be a way to figure out a better way to process Measure P applications, while still accomplishing Measure P objectives to be more efficient with staff time and fees that developers are paying.

Mayor Kennedy requested that staff take a look at Mr. Oliver's concern.

City Manager Tewes noted that the Council will be appointing a Measure P update committee and that the committee would be addressing issues of concern.

Mayor Kennedy stated that it is important that Mr. Oliver's concern be a part of the Measure P update process.

Bruce Myers stated that 60-days would mean the submittal of 61 applications on the remainder of his project. He requested clarification from staff as to how long he has from the application date to pull permits. He stated that he could not take advantage of the grandfathering provisions as it would be unlikely that he would be able to submit applications by September 1. He requested that the date be more in line with the way that the Measure P allocations are set up and the timeline for constructing the project.

No further comments were offered.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Carr, the Council, on a 4-0 vote with Council Member Sellers absent, **Continued** the public hearing to July 17, 2002.*

Mayor Pro Tempore Carr inquired as to the reason the 60-days was selected. He requested further clarification of the date in the future.

Mr. Dilles stated that 60-days is the minimum time being recommended to implement development fees. The driving force is covering the City's cost. He stated that the consultant has calculated that the City is spending much more than it is recovering in fees. The longer the City waits, the faster the Community Development reserves get used up. The 60-days was an attempt to increase the fees as quickly as possible so that the City can stay above water. He said that 20% was calculated to stay enough ahead of the game. The only thing that is driving the 60-days is the cash flow and the ability to finance the proposed budget. In response to Mayor Kennedy's question, he indicated that there are reserves in the Community Development fund. However, the budget anticipates \$360,000 at the end of next fiscal year, assuming the increases proposed. He noted that this is not a large number for the Community Development fund.

Council Member Chang inquired how much would 30-days cost the City? City Manager Tewes responded that this is an important enough question that staff would return with a response.

14. CITY RECREATION FACILITY RESERVATION PROCEDURES AND USER FEES

Recreation Manager Spier presented the staff report, indicating that staff is proposing a tiered fee system. She indicated that the Parks & Recreation Commission has several recommendations: 1) the processing fee for \$17 is implemented but not to charge the picnic rental fee, noting that the City is subsidizing by providing services free of charge. The Commission felt that the \$17 fee would be comparable to what other communities are doing at this time. 2) Look at an 80% factor when the City assesses whether it is a community organization serving the youth. She noted that the Council decided to go with the 60% that is reflected in the new proposal. 3) Should the Council move forward with the fee system that fees be collected and placed into a maintenance effort, a fund specifically to be used to maintain these types of amenities. She provided the City Council with a table of comparison fees for seven neighboring cities and one school district.

Council Member Tate requested that the actual fees paid by categories for comparison cities be provided.

Council Member Chang inquired as to the fees being proposed?

Finance Director Dilles stated that based on the numbers that Ms. Spier identified of 500 reservations at \$17 each would equate to \$8,500. What is being seen by the Council is just under \$15,000 for use of the sports fields.

Ms. Spier stated that approximately \$19,000 can be anticipated in revenues for Category A, non profit youth groups within the City limits. These revenues do not reflect special events processing, nor picnics, tennis court reservations or other uses.

Council Member Chang stated that for \$20,000, it appears to be a lot of trouble but that if \$500,000 was to be generated, she would consider the recommendation.

Ms. Spier said that it would take a lot more in the way of assumptions to calculate the revenues to be generated and that staff could return with this information, noting that she only looked at one category. She indicated that Orchard Valley Youth Soccer has calculated the revenues being proposed by the City would increase \$5 for each youth participant per year.

Mayor Kennedy inquired as to the basis for establishing the fees? He also inquired whether staff calculated all costs for services to be provided?

Ms. Spier responded that fees are based on comparables to what other communities are charging. Staff felt that this would be a more user friendly way to implement fees. She stated that staff is impacted by providing the service through the recreation division of reserving specific fields and negotiating between users. She stated that there is a cost associated with lights. Once staff looked at the hourly rate of \$17/hour for processing, staff knew that it would become expensive given the fact that the City is not charging fees at this time. Staff took an average of what the other eight communities charge and took the low end of the rates. In response to Mayor Kennedy's question, Ms. Spier informed the City Council that staff did not determine the City's actual costs for the services (e.g., utilities, maintenance, lighting, staff time, etc.).

City Manager Tewes informed the Council that the proposed fees are based on use of fields and not full cost recovery.

Mayor Kennedy stated that the actual cost for use of city facilities is not apparent and that the actual cost is much greater than is being reflected in fees, noting that the fees being proposed are based on comparables to those of other communities. He stated that he is having a hard time comparing the fees because staff's fees are set up in A, B, C categories. He recommended that Morgan Hill's fees be placed side by side to the other communities for comparison.

Mr. Dilles clarified that the processing fee is based on cost, therefore, the \$17 is a cost related fee and is different from other fees being presented.

Ms. Spier indicated that the School District has agreed to charge the same fee that the City will be charging.

Mayor Pro Tempore Carr stated some sports organizations have agreements with the School District that are outside of any fee structure. He did not know how the user fee structure would impact these agreements as there are maintenance agreements that have been agreed to by some groups.

Council Member Chang stated that she is not motivated to approve a field reservation fee structure that would only generate approximately \$20,000 but would consider the information to be presented.

Mayor Kennedy opened the floor to public comment.

Patrick Kelly, representing the Pride/Spirit of Morgan Hill, indicated that the School District intends to impose a fee. He stated that there is a specific statute that prohibits schools from imposing a fee for use of the fields by youth sports unless it is over and above the actual cost that would be incurred by the School District. He stated that every man, women and child in the city have paid for the parks and therefore are entitled to use them. He noted that seniors are not charged for the use of the senior center nor the youth who use the skateboard park, the homeowners who call a policeman for a potential burglary, persons who may be having a heart attack when they call the fire department, families who picnic in the parks, or individuals who play a pickup game of sports, nor the use of the library. He questioned why the youth sport teams are being singled out. He felt that youth groups are being charged because they are easy targets. Should the City impose the fees, the youth group organizations would have no choice but to pay the fees. He said that additional costs are not being incurred by the City for the use of the parks by the sports teams during the day as the City would still need to mow, water and fertilize the lawns. He noted that tournaments generate thousands of dollars for the city. He felt that youth organizations need to be supported and charging for use of fields is inappropriate.

Christine Giusianen, President, Spirit of Morgan Hill, stated her opposition to the proposed fee structure for recreation. She felt that fees for use of the fields would prohibit a lot of players from participating in youth organized sports, noting that some youths are sponsored who cannot afford to participate. She requested that the City rethink charging fees as this would add an additional \$13 per child to participate in sports programs. She did not know how the Council could make a decision as it is connected to agenda item 13, noting that it was continued to July 17, 2002.

David McPherson, President of Silicon Valley Association, supported a fee for a different perspective as he knows how important it is for the City to be fiscally sound and be able to cover costs. He supported an administrative fee to cover this aspect. However, his issue is regarding the fee for use of the fields. He stated that some parks are not safe to play on and that youth sport organizations invest funds to improve fields. He stated that his organization is already paying to maintain the fields and that it would add \$55 per child to pay for the use of the fields or to look at alternatives such as using fields in other cities. As far as revenues are concerned, he performed an analysis of 624 families that come into the City from out of town and spend an average of \$300 for a weekend tournament, equating to \$187,000 in discretionary spending to businesses in the community (\$1,800 in local sales tax). He informed the City Council that his organization has youths on scholarships. He felt that an administrative service fee to offset the cost for processing is reasonable for community programs. However, to request youth groups to pay an hourly rate would be difficult to do.

Sean Baldwin, Sports Coordinator for Mt. Madonna YMCA, stated that the YMCA is not opposed to paying a fee as it is understandable that there are processing fees involved. However, he felt that an hourly fee is more of a profit making scheme. He indicated that the City would have to maintain the fields no matter whether they are used or not. He stated that the YMCA would like to reserve fields and should be charged a fee to reserve the fields. He stated that the YMCA is not making a profit nor are they in existence to make a profit. He noted that the YMCA gives scholarships and free seasons and that additional fees would impact these services. He informed the Council that the

YMCA was not advised of this proposal until approximately a week ago. He did not believe others were contacted regarding this proposal and therefore recommended that action not be taken this evening.

Mayor Kennedy suggested that this item be continued to July 17 as there is a correlation with the other items on this agenda that were continued to July 17. He noted that information has been requested on comparisons and costs.

Council Member Tate felt that a fee should be charged for processing an application and the use of lights. He supported charging direct costs to the City but not the indirect costs. He felt that there was a value of having organized sports.

Mayor Pro Tempore Carr concurred with the comments expressed by Council Member Tate. However, he did not know how you would calculate the value of the exclusive right to use the fields. He agreed with the statement that taxes are paid for the parks and the fields but that the taxes did not pay for the exclusive right for one group to use the fields.

Mayor Kennedy concurred with comments expressed by Council Member Tate and Mayor Pro Tempore Carr as well as the comments made by Council Member Chang that this fee represents such a small amount of revenue in the grand scheme of things. He did not want to jeopardize the non profit youth organization who provides a wonderful service to the community's youth. However, he felt that the City needs to have a reasonable fee in place that is comparable to surrounding communities. He felt that it would be helpful to have an easier to read comparison table.

Action: *On a motion by Mayor Pro Tempore Carr and seconded by Council Member Tate, the City Council, on a 4-0 vote with Council Member Sellers absent, continued this item to July 17, 2002.*

City Manager Tewes stated that in the convening weeks, staff would make a special effort to inform the groups that are affected by this proposal. He informed the City Council that the YMCA monitors the Parks and Recreation Commission and attend their meetings. He stated that the Parks and Recreation Commission has been discussing this issue at several meetings and that the Executive Director of the YMCA is familiar with this project.

15. EXCEPTION TO LOSS OF BUILDING ALLOCATION, ELBA-02-06: CENTRAL - CENTRAL PARK – Resolution No. 5590

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Carr, the City Council, on a 4-0 vote with Council Member Sellers absent, Adopted Resolution No. 5590.*

Redevelopment Agency Action

OTHER BUSINESS:

16) MORGAN HILL DOWNTOWN ASSOCIATION (MHDA) AGREEMENT

Director of Business Assistance and Housing Services Toy presented the staff report. He informed the City Council that Dan Craig, Interim Executive Director for the Association, was in attendance as well as two board members who are available to make a presentation on their proposal.

Dan Craig informed the Agency Members that the Association is looking at the first quarter to develop a work plan. The proposal before the Redevelopment Agency covers where the Association is and where they will be going. He said that the scope of work has been broken into the first quarter and that the second part would be the annual work program. He felt that it was important, in developing a work program, that there is broad participation and a good turn out from businesses and community members. He stated that a gathering is planned for July 18 at Maurizzios from 4-8 p.m. He is assuring businesses that something new is happening, and getting them to be a part of the planning process (buy in) in order to proceed with the work program. He noted that a lot of specific things are proposed as part of the first quarter that are related to setting up an office and accounting system. He assured the Agency that the Association plans to proceed with the work program once it is established in July. The Association plans to bring back to the Agency the work program and the items that have been accomplished in the quarter in September. He said that a kick off reception will be held Thursday, June 27. The Association hopes to see group advertising, publicity efforts to market the downtown, newsletter, and meetings with the Hometown Holidays group to coordinate for the community and cultural center planning as well as open communication.

Sunday Minnich, Board Member of the Downtown Association, stated that there is an interim board of 7 voting members. A staff member and City liaison are not voting members.

Mr. Toy informed the Agency that the Association has a nine-member board. On this board, the City has a liaison with staff serving on an interim basis. He stated that staff would like the Board to consider appointing someone on a permanent basis to sit on the Board.

Agency Member Tate indicated that Agency Member Sellers feels he serves on this Board.

Mr. Toy clarified that Agency Member Sellers serves on the interim board but that he is not serving in the official City liaison role.

Agency Member Tate recommended that the Agency have Agency Member Sellers' concurrence before appointing him to the board.

Agency Member Carr inquired whether the Association was looking for an Agency Member besides Agency Member Sellers to serve on the Board as he serves in another capacity on the interim board?

Ms. Minnich indicated that she is a board member of the Downtown Association. She stated that the Association was structured with an interim board of 7 voting members, with Agency Member Sellers as one of the voting members on the interim board. She indicated that a City staff liaison and a Chamber Liaison are non voting board members who make up a 9-member board. She clarified

that Agency Member Sellers is currently a voting member. It was her belief that Mr. Toy was requesting that a staff liaison be appointed to the Board as a non voting member.

Mr. Toy clarified that should the Agency wish to appoint someone to represent the City as the City's liaison on the board that it not be a city staff member as city staff would always attend the meetings and work closely with the Association. He is not proposing that staff sit on the board on any official capacity.

Mayor Kennedy inquired whether the bylaws require a voting member from the Redevelopment Agency?

Mr. Craig stated that the City liaison would serve as an ex officio member and not as a voting member because there would be a built in conflict of interest otherwise. He stated that the City would need to appoint the ex officio member.

Agency Member Tate indicated that Agency Member Sellers was helping the Association get organized and that once organized, the Association would have their own board without an Agency Member serving on the board.

Mr. Craig indicated that the Association would be shifting from an interim mode to a permanent mode in the next several weeks, as long as it takes to fill vacancies, file tax exemption and complete a few other loose ends that need to be taken care of. The Association is looking at a City appointment in an ex officio capacity.

Chairman Kennedy requested that staff agendaize the appointment of an Agency Member to serve as the City's ex officio member at one of the upcoming meetings.

No other comments were offered.

In response to Agency Member Carr's question, Mr. Toy indicated that the \$250,000 would come from the Economic Development funds.

Action: *On a motion by Agency Member Tate and seconded by Vice-chairwoman Chang, the Redevelopment Agency, on a 4-0 vote with Agency Member Sellers absent, **Authorized** the Executive Director to negotiate and execute an agreement, subject to Agency General Counsel Approval, with the Morgan Hill Downtown Association in an amount not to exceed \$86,000.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were noted.

ADJOURNMENT

There being no further business, Chairperson/Mayor Kennedy adjourned the meeting at 10:25 p.m.

MINUTES RECORDED AND PREPARED BY

IRMA TORREZ, City Clerk/Agency Secretary



CITY COUNCIL STAFF REPORT

MEETING DATE: July 10, 2002

ZA 00-05: HALE-GLENROCK/SHEA HOMES

RECOMMENDED ACTION(S):

Open/close Public Hearing
Waive the First and Second Reading of Ordinance
Introduce Ordinance

EXECUTIVE SUMMARY:

The applicant is requesting the approval of a revised precise development plan for a 67-acre area located on the south side of Tilton Ave., east of Hale Ave. and west of Monterey Rd.

In November of 1999, the City Council approved a precise development plan for the Capriano project. The 1999 RPD also contained a series of development restrictions. The development restrictions limited the number of units, density, minimum buffer areas and amount of required open space. The RPD plan also includes a 10.5 acre area for congregate care housing.

In July of 2001, the City of Morgan Hill adopted an updated General Plan. As part of the update process, the land use designation on the 10.5 acres was changed to Multi-Family low and required that multi-family development planned for that area be buffered from view from Hale Avenue by a row of single family homes developed on lots of a minimum 9,000 square feet in size.

On June 25, the Planning Commission recommended approval (5-2 vote) of a modified precise development plan and modification of the RPD restrictions. The Commission is recommending the addition of restrictions/requirements that address the following topics: 1. The development of the single family lots within R-2 area. The single family home lots will have to come back for separate approval. 2. Allows for the deviation from the minimum street standards for Saffron Dr. 3. Places restriction on the BMR placement, density and unit type; and 4. Requires modification of the location of the preschool/nursery school site.

The Commission staff reports and minutes are attached for the Council's reference. Staff supports the proposed amendments as recommended.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

Agenda Item # 12

Prepared By:

Senior Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: *July 10, 2002*

ZONING AMENDMENT ZA: 01-16: COCHRANE-MISSION RANCH

RECOMMENDED ACTION(S):

1. Open/Close Public Hearing
2. Approve Mitigated Negative Declaration
3. Waive the reading in full of the Residential Planned Development (RPD) Ordinance
4. Introduce on first reading the RPD Ordinance (roll call vote)

Agenda Item # 13

Prepared By:

Senior Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager

EXECUTIVE SUMMARY: A request to amend the adopted precise development plan for 98 acre Mission Ranch project located on the south east corner of the intersection of Cochrane Rd. and Mission View Dr. The Mission Ranch project first received RPD and subdivision approval in 1996 for Phase I & II (57 units on approximately 21.64 acres.) In 1999 the project received approval of an overall precise development plan along with the approval of Phases III & IV which consisted of 56 units on 18.54 acres.

The applicant is proposing a redesign of the approved 1999 RPD. The new RPD layout results in the same number of units but utilizes a more traditional grid street system and minimizes the use of cul-de-sacs. The new street pattern will provide better circulation within the subdivision by reducing the number of dead ends. The new RPD design also addresses the need to incorporate a significant buffer between this development and adjacent agricultural use to the south. The new project design also aggregated two separate park areas into a single linear park running the entire length of the project. The larger linear park (10 acres) will be more useable for recreation activities and will be accessible to more of the residents within the development. The new park will also provide a minimum 80 ft. wide buffer between the new residences and the existing orchard operation on the parcel to the south. The existing poplar trees along the southern boundary of the project could also be retained within the park area as opposed to being incorporated into the rear yard area of future homes.

In May 2001 the Mission Ranch project received allocations for Phases V (15 units, FY 2002-03) and VI (9 units, FY 2003-04). As of June 5, 2002, the City Council awarded another 4 allocations, which are to be added to Phase VI bringing it to a total of 13 units for FY 2003-04. The proposed RPD also indicates the exact development of Phases V & VI of the project. The precise plan will establish specific standards for the currently requested 29-lot single-family subdivision. Key features in this phase of the development are the Peet Rd. frontage improvements and the extension of Mission Avenida through to Peet Rd. The current phase of the project will complete the pedestrian pathways within the project along Via Avenida and Cochrane Rd. which will also provide a pedestrian link between the units proposed at this time and the existing amenities.

The Planning Commission reviewed the proposed RPD amendment at their June 11 meeting at which time they recommended approval (7-0 vote) of the new precise development plan and the Phase V & VI improvement. A copy of the Planning Commission staff report has been attached for the Council's reference.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.



CITY COUNCIL STAFF REPORT

MEETING DATE: *July 10, 2002*

ZONING AMENDMENT ZA 01-15: COCHRANE-COYOTE ESTATES

RECOMMENDED ACTION(S):

1. Open/Close Public Hearing
2. Approve Mitigated Negative Declaration
3. Waive the reading in full of the Residential Planned Development (RPD) Ordinance
4. Introduce on first reading the RPD Ordinance (roll call vote)

EXECUTIVE SUMMARY:

A request for a zoning amendment on the west side of Peet Road, consisting of approximately 18-acres, from R-1 9,000 to R-1 12,000 RPD and incorporating the area with the adjoining coyote Estates RPD, which would result in 204 homes on approximately 70-acres at full build-out. There are approximately 130 existing homes and the applicant has received 16 additional building allotments (Phase VI), which will be under construction in the near future.

The applicant is seeking a zoning amendment to increase minimum lot sizes from R1-9,000 to R1-12,000 with a RPD overlay and incorporate the area into the adjacent Coyote Estates development. The overlay would allow the applicant to modify lot configurations and provide a .7-acre park on the north western portion of the project. The RPD will assure that overall project design will incorporate commitments made during the Measure P process. The precise plan will establish specific standards for the proposed park as well as future development, if and when additional Measure P allocations are awarded. The improvements proposed for phase VI are consistent with commitments made during the Measure P competition.

The Coyote Estates project received 5 building allocations in the 1999 MP competition, for FY 2001-2002 and eleven allocations in 2000 MP competition for FY 2002-2003. The 16 allotments will define phase VI of the project. In 1996, an expanded initial study was completed for the Coyote Ranch project. The 1996 initial study evaluated land east of Peet Road, north of Cochrane Road, and west of Malaguerra Avenue. The current proposal includes open space park land located west of Peet Road. A new environmental initial study was prepared, in order to update the existing environmental document and to include the proposed open space/park lot, as well as full potential future build out of Coyote Estates.

The Planning Commission reviewed the proposed RPD amendment at their June 11 meeting at which time they recommended approval (7-0 vote) of the new precise development plan and the Phase VI improvement. A copy of the Planning Commission staff report have been attached for the Council's reference.

FISCAL IMPACT:

None. Filing fees were paid to the City to cover the cost of processing this application.

Agenda Item # 14

Prepared By:

Contract Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: July 10, 2002

TITLE: CONFIRMING THE SANTA CLARA COUNTY FIRE MARSHAL'S REPORT ON BRUSH ABATEMENT

RECOMMENDED ACTION(S):

Open/Close Public Hearing.

EXECUTIVE SUMMARY:

On June 5, 2002, the City Council adopted Resolution 5570 declaring brush to be a nuisance, identifying properties which required brush abatement, and setting June 19, 2002 as the date for the public hearing for brush abatement. The public hearing was opened on June 19, but continued to July 10 as the notification process had not been completed.

The public notification process has now been completed, and staff have contacted property owners by mail to inform them of the July 10 hearing date. This hearing is property owners' opportunity to contest their property's placement on the brush abatement list.

Staff recognizes that coordination with the Fire Marshal's Office continues to be a work in progress. We will be meeting with the Fire Marshal's Office later in the season to discuss how to improve our coordination and notification procedures.

FISCAL IMPACT: No budget adjustment required as the Hazardous Vegetation Abatement service is user-fee supported. The per lot assessment includes costs for doing brush control work plus the overhead cost to provide the service

Agenda Item # 15

**Prepared/Approved
By:**

Asst. to the City Mgr.

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: July 10, 2002

**APPLICATION ZA-02-07: TEXT AMENDMENT - RESIDENTIAL
DEVELOPMENT CONTROL SYSTEM (RDSCS) STANDARDS AND
CRITERIA**

RECOMMENDED ACTION(S):

1. Open/Close the Public Hearing
2. Waive the first and second reading of the Ordinance
3. Introduce Ordinance (roll call vote)

Agenda Item # 16

Prepared By:

Senior Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager

EXECUTIVE SUMMARY:

Section 18.78.188(C) of the RDSCS Ordinance requires the Planning Commission to review the standards and criteria following each Measure P competition, and to decide whether any changes or amendments are necessary for the next competition. A Subcommittee of the Planning Commission was appointed to evaluate proposed changes which would be recommended to the City Council for adoption. The Subcommittee was comprised of three Planning Commissioners (Lyle, Mueller and Benich) and two developers (Rocke Garcia of Glenrock Builders and Carolyn Hipp with Warmington Homes). City Staff involved in the evaluation process were also consulted and provided input to the Subcommittee. Recommendations of the Subcommittee were considered by the full Planning Commission at their June 11 and June 25 meeting.

The recommended changes to the RDSCS standards and criteria are outlined in the attached Ordinance. New or modified criterion is shown in underlined text within the ordinance. Some of the more significant changes proposed include: The addition of criteria (subsection B1b of 18.78.270) awarding points for providing moderate rate units within projects. This will ensure that at least 10 percent of the dwelling units in each project will be affordable to moderate income households. Currently, the 10 percent below market rate (BMR) units in each project are affordable to lower income households and the market rate units are mostly in the above moderate income range. The park in lieu fee commitments have been modified to include an overall cap of a \$3000 per unit, in addition to the standard in lieu park fee (subsections 5 a & b of 18.78.250). This is approximately \$600 more than the current park fee, ensuring there will be no loss in City revenue. And a minimum value of \$1000 dollars per unit equivalent has also been established for public improvement commitments within the Schools, Circulation and Public Facilities categories.

In addition to changes to the scoring criteria, the Commission has also recommended changing the number of units allowed as a micro project from 5 to 6.

The Planning Commission voted 7-0 to recommend approval of the Ordinance changes. Staff supports the proposed amendments as recommended.

FISCAL IMPACT: The final cost for preparation of staff reports, meetings and other research for this item has not been determined. The cost will be charged to the Community Development Fund pursuant to City Council Policy.



CITY COUNCIL/RDA STAFF REPORT

MEETING DATE: JULY 10, 2002

Agenda Item # 17

Prepared By:

City Manager

CHAMBER OF COMMERCE'S PROPOSED "MARKETING PLAN FOR ECONOMIC DEVELOPMENT AND TOURISM"

RECOMMENDED ACTION(S): Consider the attached report and adopt the process outlined below.

EXECUTIVE SUMMARY: The Chamber's proposed Marketing Plan poses three policy issues for Council consideration:

1. Should the City and RDA spend more money annually on economic development staffing and marketing?
2. Should the focus of the City's and RDA's economic development efforts be expanded to include areas such as promotion of tourism and others recommended by the Chamber?
3. Should the City and RDA implement its economic development strategy by funding additional staff resources at the Chamber of Commerce?

It is recognized that the Chamber's proposal has ancillary benefits for the Chamber such as assisting in its long standing goal to move to new offices and establish a visitor center, but it is important for the Council and RDA to focus on the extent to which the proposal can help achieve public policy goals for economic development within budgetary constraints.

The attached report analyzes current and past economic development activities and offers some suggestions on issues to explore before making new financial commitments. But, we recognize that this is the City's staff perspective and that, in essence, we are commenting on our own work. Similarly, the Chamber's proposal is based on its advocacy for a particular approach and a self assessment of its organizational capacity to provide the services they propose. Our recommendation is that the Council and RDA proceed through three steps to address the issues posed by the Chamber's proposal.

First, we recommend that for FY '03 only, the Chamber be allocated an additional \$50,000 specifically for marketing Morgan Hill to potential business investors. This would be consistent with the specific goal established by the Council to pursue "joint marketing" with the Chamber.

Second, we recommend that the Council consider establishing a subcommittee of Councilmembers to work with the Chamber and staff to test the potential financial support from Chamber members for expanded tourism efforts, and to explore options such as the establishment of a regional "South County" effort or contracting with other organizations such as the San Jose Visitors and Convention Bureau.

Third, and most important, we believe a clear and focused economic development strategy needs to be developed before limited resources should be allocated to staffing and other "services." Perhaps additional resources would be better spent in direct assistance to business, but without a strategy in place, we can't properly evaluate the alternatives. The Council recently recognized the need for such a "Housing Strategy" which is now underway. The BAHS work plan proposes to prepare a similar strategy for economic development. A Council adopted Economic Development Strategy would provide clear direction to City staff and guidance to the Chamber and others on how they can assist in the implementation of the strategy.

FISCAL IMPACT: The recommended action would use the \$50,000 from "New Programs/Projects" category in the current BAHS budget. Longer term fiscal impacts would be identified in the preparation of an Economic Development Strategy.

**REPORT
ON THE
MORGAN HILL CHAMBER OF COMMERCE
MARKETING PLAN
FOR
ECONOMIC DEVELOPMENT AND TOURISM**

July 10, 2002

**Prepared by:
Department of Business Assistance and Housing Services**

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Attachments

Attachment A- Morgan Hill Chamber of Commerce Marketing Plan

Attachment B- Business Assistance Guidelines

Attachment C- Agency's Economic Development Projections

Attachment D- Proposed Uses of Funds

Attachment E- Proposed Sources of Funds

I. INTRODUCTION

On June 19, 2002, the Morgan Hill Chamber of Commerce (Chamber) presented its Marketing Plan for Economic Development and Tourism (Plan) to the City Council. This Plan was in response to the City Council's request for a joint marketing effort between the City and Chamber. At this meeting, staff indicated we would report back to the Council with a recommendation within 3 weeks.

This report provides an analysis of the Morgan Hill Chamber of Commerce economic development and tourism marketing plan. The report is broken into 10 sections:

- *Section I* provides the introduction and a brief outline of the report's purpose.
- *Sections II-V* provide : (a) a background on the City's economic development (ED) activities, (b) a description of how ED functions are prioritized, (c) detail on how the City does business attraction, and (d) highlights of the economic growth over the past three years in Morgan Hill.
- *Sections VI* summarizes the Chamber's proposed marketing plan and provides an additional list of market weaknesses to consider.
- *Section VII-VIII* provide: (a) the Council with a series of policies/issues to consider before allocating any funding and (b) an analysis of seven key issues to assist the Council in their discussions.
- *Section IX-X* discuss: (a) the potential financial impact on the \$16 million in Redevelopment Agency funds allocated to economic development activities and (b) the Chamber's budget for implementing the Plan.

Overall, this report focuses on policy issues and alternatives for the Council to consider. The comments are more detailed with regard to the economic development (ED) portion of the Plan because of staff's experience in administering ED programs. In comparison, the comments related to tourism are more general in nature. Specifically, the report requests direction regarding the following basic questions:

- What are the Council's ED and tourism goals/objectives?
- Will implementing all or a portion of this Plan meet those goals/objectives?
- If so, how much is the Council willing to allocate for the Plan?
- What are the alternatives?

With answers to these questions, Council could direct staff to meet with the Chamber to clarify issues or modify the Plan to better meet the City's identified needs, and negotiate an appropriate contractual relationship with the Chamber.

II. ECONOMIC DEVELOPMENT EFFORTS

The Business Assistance and Housing Services (BAHS) department has primary staff responsibility for the City's economic development activities. Three BAHS staff members work on a variety of ED activities which include, but are not limited to, the following:

- Developing and implementing the auto district strategy
- Working with broker/developers/property owners to facilitate the development of opportunity sites at the three freeway interchanges
- Providing ombudsman services to businesses/developers such as Alien, Media Arts, Harley Davidson, In'n'Out Burger, Venture Corp. and Safeway
- Developing and distributing new marketing materials such as the new brochure)
- Implementing marketing efforts such as attending International Council of Shopping Centers (ICSC) conferences and mail outs to brokers, and calls to businesses
- Act as city liaison or "first point of contact "to business
- Facilitating the formation of the Morgan Hill Downtown Association to implement a Main St. program
- Negotiating and monitoring development agreements
- Coordinating special events such as the "Welcome to Morgan Hill" event
- Administering the facade grant program
- Administering the small business fee deferral program
- Administering the sewer and traffic fee deferral program
- Responding to request for information such as site selection or demographic data
- Providing staff support for various studies such as the update of the downtown plan
- Developing new ED programs
- Coordinating the development of the Morgan Hill Courthouse
- Managing special studies such as reuse strategy for Morgan Hill Plaza
- Providing support to the Sister City Committee
- Attending and assisting the Chamber's ED committee
- Managing the Chamber of Commerce contract and monitoring the Chamber's annual workplan for economic development
- Managing historic preservation projects (e.g., Old MH elementary school)

III. PRIORITIZATION OF FUNCTIONS

It should be noted that some ED functions have a higher priority because they have a higher value than others. Tasks with a higher value are those which have a higher return or a higher probability of a return on investment of public resources including staff time.

Two examples of higher value tasks are:

- Implementation of the auto district strategy- Staff retained a public relations firm to increase the media exposure of the City's strategy. The result was a front page article in the SJ Business Journal. The exposure resulted in contacts from several developers and auto dealers interested in the concept who had not previously considered Morgan Hill. All stressed the importance of the auto dealers financial assistance package in gaining their attention.
- Providing ombudsman services to businesses- Staff is currently assisting such companies as Safeway, Harley-Davidson, Venture Corporation and Johnson Lumber with the planning approval process. Sometimes applicants need assistance in working out issues with other departments or need a City liaison to facilitate their project. This is a high value service that is also highly sensitive because many competing City policies need to be addressed in a manner responsive to business needs (e.g., design standards).

Both these activities are considered higher value tasks because they have a high probability of being developed and of generating significant revenue and jobs to the City. The success of these ED tasks could be enhanced if additional fiscal and staff resources were available.

In comparison, the following activities are currently considered lower priority tasks because from experience they have less return on investment, or the private sector can undertake the tasks more effectively and efficiently:

- Making "cold calls" to specific companies/retailers in hope they will invest in Morgan Hill
- Mailing of marketing materials to a large list of brokers
- Attending manufacturing trade shows such as medical manufacturing
- Advertising in trade magazines or newspapers

The Chamber's Plan includes tasks such as advertising and public relations that are not given high priority in the current budget. In general, our approach has been to augment the existing efforts of developers/brokers by making referrals or offering access to our marketing materials. We find that the private sector is much better at marketing their properties or have established relationships with specific companies (e.g., retailers) that would be difficult for us to duplicate.

Nonetheless, we occasionally do make cold calls and attend conferences/trade shows as the budget and time permits. In some cases, a lower value task may also be a higher value task when it is more focused such as our efforts to implement the auto district strategy. All things being equal, staff finds that most "non-focused" marketing efforts are not as productive as other ED activities. However,

staff recognizes that the Council has requested us to develop a joint marketing plan with the Chamber and that the Chamber may have the time and interest in coordinating that effort. The current slowdown in the economy has caused all competing regions to evaluate their marketing and economic development strategies.

IV. HOW THE CITY DOES ECONOMIC DEVELOPMENT

Three BAHS staff members act as the “point of contact” for companies interested in relocating or expanding their business. One staff person is assigned as the city liaison to the company and is responsible for all follow-up activities with the company. The benefit of having three staff members capable of acting as a “point of contact” enables BAHS staff to “back up” one another. However, this is only one approach for providing “point of contact” services.

In general, companies considering new locations will request a combination of the following services or information:

- A list of potential sites, demographic data, and other info
- Meetings to discuss the entitlement process, fees, schedule, and environmental issues
- Available business assistance programs
- Commitment to expedite permitting
- Commitment for financial assistance

Companies may be doing their due diligence for a specific site or may be collecting data on a variety of locations, with Morgan Hill being one of them. Sometimes we meet once with a business and they make a decision to come to town. Other times we meet numerous times with a company, prepare an assistance package for City/Agency approval, and yet the company will select a non-Morgan Hill location. These decisions can sometimes take as long as two years.

In general, the developers/brokers/consultants will either refer companies to us or collect the information on the companies’ behalf. The developers/brokers/consultants do extensive marketing and generally have or develop the initial relationships with companies. This has proven as effective as the City trying to develop those initial relationships especially since we do not own any property, and cannot favor one land owner over another. It is, however, still necessary to market the community as a desirable investment opportunity.

Our marketing efforts are more reactive than proactive. Reactive means we respond to request for information, follow-up on leads from sources such as the newspaper, or assist developers/brokers with their efforts to bring companies to town. With regard to proactive efforts, staff periodically contacts both retail and industrial companies which would be a good fit for the City (e.g., Trader Joes, IKEA). The contact includes both sending the companies our marketing materials as well as phone calls. For the most part, we find that most chain retailers are aware of Morgan Hill. They have limited budgets for expansion and make choices based on evaluating their alternatives.

In general, the City’s marketing efforts can help increase awareness or change perceptions, but it won’t help a company make a decision. Just asking a company to come to town is no guarantee that will happen. Companies base their decisions to relocate on a variety of factors. Many of these factors are beyond the City’s control including the company’s own budget for expansion. Other factors include land/lease costs, proximity to skilled and semi-skilled workforce, population within a trade area, demographics, proximity to affordable housing, infrastructure in place, costs of

construction, where executive staff reside, and transportation.

Staff finds that the property owners and developers have much more impact on a company's decision to invest in Morgan Hill. For example, while staff met several times with Media Arts to encourage them to come to town, Media Arts came to town based on business terms negotiated with a developer and without any financial assistance from the City. Although the City provided an assistance package to attract Abbott Labs, the developer provided the land at a reduced value to swing the deal.

V. ECONOMIC DEVELOPMENT GROWTH

It is important to note that over the last three years, the City has experienced phenomenal industrial and commercial growth. The City was instrumental in facilitating that growth by approving development agreements for the new Madrone Business Park and existing Morgan Hill Ranch. Morgan Hill Ranch was identified by the San Jose Business Journal as the largest business park in Silicon Valley. Madrone is one of the top ten largest parks. The following are some city economic growth facts to consider:

- From 1999 to 2002, the City has added over 1.4 million of new square feet of industrial/commercial space with a valuation of over \$100,000,000
- From FY99/00 to FY00/01, City sales tax revenues increased by about \$1.1M or 24% (\$4.4M to \$5.5M). With the downturn in the economy, sales tax revenues are estimated to drop in FY01/02, but will remain about \$750,000 or 17 % higher than in FY99/00.
- Redevelopment Agency tax increment increased by \$2.2M or 16% from FY99/00 to FY01/02. This represents an assessed value increase of \$220,000,000 over the three year period. This represents the growth in commercial/industrial development since all the business parks are located within the Redevelopment Project Area.
- From FY99/00 to FY00/01, Transit Occupancy Tax (TOT) revenues increased by about \$279,000 or 26% from \$1.1M to \$1.4M . With the downturn in the economy, TOT revenues for FY01/02 are only estimated at \$870,000.

While this is not to imply that the City's marketing efforts led to this all growth, staff believes the City's economic development efforts including marketing contributed to this increase. With the slowdown in the regional economy, it would be prudent to reevaluate the City's current marketing efforts and determine if more resources and/or a different approach should be taken. At its annual retreat, the Council directed that staff engage in joint marketing with the Chamber.

VI. CHAMBER'S PROPOSED MARKETING PLAN

The Chamber's Marketing Plan identifies strengths and weaknesses in Morgan Hill that the Plan would address for both tourism and economic development . The Plan states that with "proper marketing Morgan Hill can minimize/eliminate many of its weaknesses and turn others to strengths."

The Plan lists numerous goals and objectives that would be undertaken to implement the marketing strategy. Two requirements are recommended by the Chamber to successfully implement the goals and objectives of the Plan:

- 1) The Chamber proposes to hire a qualified professional to conduct marketing for economic development; and
- 2) Expand and relocate the Chambers offices to include a visitors bureau with a business center.

In essence, the Chamber' Plan has four key components:

- Economic Development Marketing
- Business Attraction
- Business Retention
- Visitors Bureau with business center

Attachment A contains a copy of the Chamber's Plan.

Funding Request

The Chamber is requesting a five year commitment from the City to fund this Plan. In the first year, the Chamber would hire an ED professional who would do both the marketing for economic development and tourism. Chamber staff would assist the ED professional with the tourism activities during the first year. In the second year, the Chamber would hire an additional staff member to operate the visitors bureau. The ED professional would then focus on business attraction and retention activities.

The total budget for the first year is \$384,000 of which the City would fund \$199,000. The second year budget is \$336,000 of which the City would fund \$171,000. The proposed average annual contribution from the City would be approximately \$175,000 over the five year period. The Proposed Plan Budget Section describes in more detail the Chamber's budget.

Market Weaknesses

As the Plan's goals and objectives are targeted toward Morgan Hill's market weaknesses, it is important to understand what those weaknesses are. Below is a list of the market weaknesses contained in the Plan (left-hand column). For comparison purposes, staff prepared the column on the right which contains fundamental weaknesses not specifically mentioned by the Plan.

Chamber Plan List Of Weaknesses

Minimal Public Transportation

Traffic Bottlenecks

Insufficient Youth Activities

No Large Indoor Meeting Facility

Perception of Identity

No Recognizable Restaurant

Perception of Remoteness

Other ED & Tourism Weaknesses

Insufficient number of population/households in trade area

Insufficient amount of day-time population

Slow down in regional economy

Many commercial sites not assembled for development

Land/lease rates not as competitive due to surplus inventory in Silicon Valley

Some property owners or family trusts are willing to hold out for higher prices in the future

Lack of a major attraction located within the City limits

Tourism benefit to City is lodging based

Lack of news coverage by regional media (SJ Mercury News)

While increased marketing efforts may help increase awareness or develop positive perceptions, they will not minimize or eliminate several of the core weaknesses such as insufficient population in the trade area. However, this does not mean the City should not engage in expanded marketing efforts or that the City should not focus on marketing its strengths such as high household incomes.

VII. POLICIES/ISSUES TO CONSIDER

The Council may want to consider several questions or issues related to economic development and tourism before allocating any funding. The answers to the following questions may guide the Council in how they want to proceed:

- 1. What are the City's economic development and tourism goals/objectives?**
 - Are the business assistance guidelines adopted in February 1999 still reflective of the Council's priorities with regard to retail, commercial, and industrial development (see Attachment B)?
 - Do specific components of the Plan have a higher priority than others?
 - Is the focus on filling existing vacant space or developing vacant land?
- 2. Do we need to expand current ED and/or tourism marketing efforts?**
 - If so, how much more City resources should be allocated?
 - Can existing City resources be reallocated?
 - Are there more cost effective and/or efficient methods of achieving the tasks?
 - If so, who should provide the additional services?
- 3. What are the different methods/alternatives to providing these services?**
- 4. What, if any, is the expected return on investment (cost v. benefit) and how should it be measured?**
- 5. Are the limited ED funds better spent elsewhere?**
 - Installing public infrastructure
 - Providing direct assistance to businesses
 - Providing incentives to brokers/developers
 - Reducing impact fees on short-term or long-term basis
- 6. Is the Council willing to commit to fund this Plan on a long term basis?**

VIII. ANALYSIS OF KEY ISSUES

To assist the Council in their discussion of the above issues, the report provides an analysis of seven key issues:

- Return On Investment
- Tourism Benefit is Lodging Based
- Accountability
- Coordination of ED Activities
- Joint Marketing Efforts
- Other ED Marketing Alternatives
- Other Tourism Alternatives

1. Return On Investment

The marketing plan does not contain an analysis of potential benefits to the City, but rather lists performance measures by which to evaluate goals.

To provide some quantifiable measure, we are assuming an annual baseline contribution of \$90,000 to the Chamber. Under this premise, the Chamber would need an additional \$85,000 annually to implement its marketing plan (assume avg. need of \$175,000). For the City to recoup its \$85,000, we would need to see an increase of \$8,500,000 in taxable sales (1%), an increase in Transit Occupancy Tax (TOT) of \$850,000, or an increase in a combination thereof. This would equate to about a 1.5% increase in total sales tax revenue or a 10% increase in TOT revenues.

2. Tourism Benefit Is Lodging Based

With regard to tourism, many of the regional attractions are located outside of the City limits. As a result, the City would not receive any sales tax revenue from purchases at those locations. Granted some tourists will spend money in town, but it is unlikely they would spend an additional \$8.5M annually in taxable sales. Thus, the bulk of the tourism benefit to the City will need to come from tourist staying at local lodging establishments within the City limits. The TOT revenues are based on 10% of room rates as opposed to taxable sales of which the City receives 1%.

Tourism is currently only a small part of the lodging industry in Morgan Hill. At the peak of the market, hotels were relying on business travel including overflow from conventions in San Jose. Establishing a visitors bureau is a commitment to making tourism a more significant part of the local economy. .

If the Council agrees with this concept, they may want to consider: 1) the activities the lodging industry will undertake to augment the Chamber's efforts, and 2) what should be the baseline benchmarks for measuring the success of tourism before allocating funding.

3. Accountability

Although the Chamber has indicated it would work with Council members to discuss their interests and priorities, the Chamber is a member based organization. There may be occasions in which its responsibility to its members may conflict with its contractual obligation to the City. For example, marketing materials prepared by the Chamber such as the business directory would need to include all city businesses and not just chamber members. Possibilities also exist for the Chamber to be at odds with the City over land uses or potential development related to business attraction activities (e.g., big box stores). Promotion of tourism may benefit Chamber members outside the City limits with only indirect benefit to the City.

To avoid potential conflicts, it has been suggested that maybe the City and Chamber could manage the Chamber's ED professional with a joint management committee (Committee). However, this arrangement would require several questions to be addressed before implementing such a structure. Some questions to consider include:

- ← Would having two different "masters" hinder the ED person's ability to do his/her job?
- ← Under what circumstances would the ED person need to report to the Committee?
- ← What would happen if the member of the Committee disagreed on a course of action?

The current economic development structure provides the strongest control for the Council.

4. Coordination of ED Activities

Should the Chamber retain a ED professional, there will be a need for extensive coordination with the City. Since BAHS currently provides the City's business attraction services, there is the potential for significant duplication. However, the Chamber has indicated that it would coordinate its efforts with City staff to avoid the duplication of services. Even so, there are several issues to consider with regard to the Chambers proposal:

- ← What is the level of coordination needed and would it adversely impact City and/or Chamber's staff?
- ← What, if any, level of commitments can the ED professional make on behalf of the City with regard to financial/non-financial assistance?
- ← Would businesses and brokers be confused as to who to contact by having both a Chamber ED professional and City ED staff?
- ← Would businesses prefer a non-city entity such as the Chamber doing business attraction?
- ← Is it ok if the services provided by the ED professional duplicates the services offered by City staff?

It should be noted that the separate ED professional concept works in Gilroy because the City does not have its own economic development staff and it is clear that there is a separate EDC.

Should the Council wish to avoid the duplication of services and maintain control of business attraction activities, the current ED structure provides this.

5. Joint Marketing Efforts

The Council expressed an interest for joint marketing with the Chamber. The Plan suggests that the Chamber become the marketing arm for the City for both economic development and tourism. A joint marketing effort would suggest that the Chamber does what it knows best and the City do what it knows best. The Chamber's strength is marketing for tourism and Chamber members. The City has more expertise in economic developing activities. However, there are numerous ED tasks that the Chamber could undertake with tourism staff. They include, but are not limited, to:

- ← Public Relations
- ← Advertising
- ← Website for economic development
- ← Business retention activities

With regard to business retention activities, the Chamber in the past has conducted surveys and site visits in cooperation with City staff.

6. Other ED Marketing Alternatives

The Council may want to evaluate if ED marketing services can be provided in a more costs effective and efficient manner Some alternatives to consider are:

- ← Marketing services can be provided by consulting firms. There are many firms that can develop and implement a marketing strategy and workplan. The major benefit of using a firm is that their services can be reduced or eliminated at any time.
- ← Retaining a firm that specializes in attracting retailers. In essence, this firm acts as the City's retail broker except it is are paid on a time and materials basis. This firm develops the City's retail strategy and then markets the strategy to major retailers with which it has a working relationship.
- ← In lieu of marketing, the City could allocate the funding to:
 - ▶ Pay for fees and permits as incentives for specific businesses
 - ▶ Pay for regional traffic or sewer improvements to reduce impact fees
 - ▶ Offer incentives to brokers/developers who bring specific businesses to town
 - ▶ Directly supplement the current marketing efforts of major developers in town (e.g., pay for a portion of PR efforts).

7. Other Tourism Alternatives

The Council may want to evaluate if services can be provided by other agencies. Some alternatives to consider are:

- ← There are other visitors bureaus such as Gilroy and San Jose which may be able to provide such services at a greater economies of scale. Although the Plan does indicate that the Morgan Hill Visitors Bureau would work cooperatively with the Gilroy Bureau on a advertising campaign, there may be additional costs savings with having a satellite office of another visitors bureau. This option would not preclude the possibility that the Chamber could work with another agency to provide visitor's services.
- ← Requiring the Visitors Bureau to meet a more tangible goal. One such goal is to require the Chamber to develop a major, local tourism attraction in town. The most logical suggestion would be the development of a Museum for Thomas Kinkade's works of art. A lesser requirement would be for the Chamber to work with well-known companies such as Media Arts or Specialized to schedule tours for their facilities in town.

IX. FINANCIAL IMPACTS

Attachment C contains a spreadsheet which projects the uses of the ED funds allocated by the Agency (\$16,000,000) over the life of the Plan Amendment. Costs are broken into general categories such as administration, downtown, and new programs/projects. For more detail on the general categories, please refer to the note section on the bottom of the spreadsheet. In our projections, we assumed some baseline funding for specific activities. For example, we assumed the Council would want to provide minimal funding for the facade grant and small business fee deferral program. We also established baseline funding for the Chamber at \$90,000 per year.

Full funding of the Chamber's marketing plan through the life of the Plan Amendment would require an additional \$835,000 of Agency funds for a total investment of \$1.6M including the \$90,000 per year. The source for these funds would come from the new programs and projects category. The impact would be to reduce the total funding in this category from \$4.3M to \$3.5M.

The new programs/projects category is reserved for new programs or projects that the Council may want to fund in the future such as:

Downtown improvements/infrastructure including parking

- Transit oriented developments including market rate housing
- New assistance programs for the downtown/Monterey corridor (e.g., commercial loan program)
- Specific business assistance proposals
- Additional street improvements or other infrastructure projects in the Redevelopment Project Area
- Historic preservation projects
- Property acquisition related to economic development
- New program/projects/services
- Retaining professional firms to attract businesses or prepare studies to do so
- Augment/supplement existing programs (e.g., sister city, facade grant)

In the past, assistance to such companies as Abbott, Anritsu, and Specialized were funded out of the new programs/projects category. Although Media Arts did not accept any assistance from the City, the funding would have come from this category.

Although the Chamber is requesting a five-year commitment with a review at the end of three years, the Chamber has not yet demonstrated other sources of funds to replace the Agency's funds. The City should consider the long term impacts of supporting this program.

X. PROPOSED PLAN BUDGET

Attachment D contains pie charts showing the proposed uses of funds to implement the Plan over the first two years. Attachment E shows the sources of funds for the first two years.

The total budget for the first year is \$384,000. The second year budget is \$336,000. The main difference is that the first year budget has one-time capital/relocation expenses and uses a public relations firm (PR) for six months in the first year. In the second year, the total budget reflects the reduction of one time capital expenses, but replaces the PR firm with a new staff member to implement the tourism portion of the Plan.

About 50% of the total budget would be funded by the Agency. The remaining 50% of the funding would come from the Chamber, private sector, and in-kind services. The Chamber has provided us with the following information on their budget:

- The private sector funds are not committed, but the Chamber indicates that private parties have “bought in” into the concept. The exact level of financial participation by these parties has yet to be determined, but the Chamber believes it will be able raise the \$43,000 from the private sector. The ED professional would be responsible for generating the revenue.
- In the event the private sector does not fully contribute to its portion, the Chamber has indicated it would be responsible for funding the entire Plan budget.
- The Plan allocates \$48,000 for lease for the new visitor/business center. With the approval of funding by the Council, the Chamber would begin looking for a new location. Its preference is to find an existing facility of 2,500-3,000 square feet.
- The Chamber proposes to fund about 35% of the cost to implement the Plan. The funds are a reallocation of the Chamber’s existing budget. The Chamber states that it would not cut any previously funded activity. The additional revenue would be generated through increased memberships, more partnerships with businesses, more in-kind services received, and general cost cutting measures.
- The overhead allocation of \$10,000 is for facility related charges such as PGE, maintenance, and water.
- The possible in-kind services estimates are based on what the Chamber has received in the past for similar services.
- The Chamber could not implement this Plan from their existing facilities due to space constraints.
- The Chamber has stated it would cover the entire cost of its relocation and one time capital costs of \$50,000.
- The Chamber has indicated it intends to relocate its offices regardless of whether the Plan received funding, but it would not be able to implement the Plan.



CITY COUNCIL STAFF REPORT

MEETING DATE: July 10, 2002

ADJUSTMENTS TO DEVELOPMENT IMPACT FEES

RECOMMENDED ACTIONS:

1. Open & close the Public Hearing
2. Waive the first & second reading of the Ordinance
3. Introduce the Ordinance

EXECUTIVE SUMMARY: On May 22, staff and the City's consultant, Maximus, presented proposed changes to development impact fees to the City Council. The consultant reviewed the various master plans available to the City and determined the appropriate fee, based upon demand data, that is necessary to recover the full cost of necessary specific capital improvements for each fee, to the extent that these projects benefit new residential, commercial, and industrial development. In addition, although not legally required, at staff's direction, the consultant reduced certain impact fee calculations due to other funding sources. The existing fees that have been reviewed are General Government Facilities, Libraries, Traffic, Police, Fire, Parks, Local Drainage, Sewer, and Water. The consultant's report also proposes new fees for Community & Recreation Centers and for Open Space. However, staff recommends that these fees not be adopted at this time. In addition, staff and/or the consultant met with developers on two occasions to discuss proposed fees and answer their questions.

On June 26, the City Council opened a public hearing on these proposed fee adjustments and heard from the public. The City Council then continued the public hearing on development impact fees until July 17. The hearing was also re-noticed for that date. In response to various calculation and implementation questions raised by the City Council and by the public, staff will be providing additional information at the public hearing.

As now proposed, the total impact fees for a single family home would increase by 54% from \$13,550 to \$20,860, as shown on the attached schedule. It is recommended that the Library fee not be updated, at this time, until the outcome of the City's Proposition 14 grant application is known, as available revenues cannot be precisely calculated until we ascertain whether grant monies are available. Attached are the two consultant reports concerning fees. The first report covers all fees except Sewer and Water, while the second describes the Sewer and Water connection fees.

Attached for Council consideration are an Ordinance, amending the current development impact fee ordinance, and a Resolution adjusting the amounts of the development impact fees. Staff recommends that the City Council introduce the Ordinance this evening and bring back the Ordinance and Resolution for adoption at the July 17 meeting.

FISCAL IMPACT: If the City Council adopts the proposed fees, the City would collect from new development the cost of new facilities to the extent that the facilities benefit new development. The amount to be collected from future development, as projected until build-out, for the eight impact fees with proposed adjustments would be \$194,992,490.

Agenda Item # 18

Prepared By:

Finance Director

Submitted By:

City Manager

SCHEDULE OF PROPOSED DEVELOPMENT IMPACT FEES

EXHIBIT A

Fee Description	Proposed Fee
Water	
Single Family Residential	\$ 1,769.00 per dwelling unit
Multi Family Residential	\$ 1,596.00 per dwelling unit
Commercial (Retail)	\$ 5,021.00 per acre
Industrial	\$ 5,021.00 per acre
Sewer	
Single Family Residential	\$ 8,026.00 per dwelling unit
Multi Family Residential	\$ 6,793.00 per dwelling unit
Commercial (Retail)	\$ 27.45 per gallon
Industrial	\$ 27.45 per gallon
Public Facilities	
Single Family Residential	\$ 466.00 per dwelling unit
Multi Family Residential	\$ 381.00 per dwelling unit
Commercial (Retail)	\$ 2,118.00 per acre
Industrial	\$ 1,412.00 per acre
Library	
Single Family Residential	\$ 216.00 per dwelling unit
Multi Family Residential	\$ 181.00 per dwelling unit
Traffic Impact	
Single Family Residential	\$ 2,811.00 per dwelling unit
Multi Family Residential	\$ 1,968.00 per dwelling unit
Commercial (Retail)	\$ 2,811.00 per pk hr trip
Industrial	\$ 2,811.00 per pk hr trip
Police	
Single Family Residential	\$ 164.00 per dwelling unit
Multi Family Residential	\$ 596.00 per dwelling unit
Commercial (Retail)	\$ 3,607.00 per acre
Industrial	\$ 403.00 per acre
Fire	
Single Family Residential	\$ 447.00 per dwelling unit
Multi Family Residential	\$ 174.00 per dwelling unit
Commercial (Retail)	\$ 1,340.00 per acre
Industrial	\$ 1,340.00 per acre
Park Improvement	
Single Family Residential	\$ 1,338.00 per dwelling unit
Multi Family Residential	\$ 1,094.00 per dwelling unit
Park In Lieu-Subdivision	
Single Family Residential	\$ 3,960.00 per dwelling unit
Multi Family Residential	\$ 3,240.00 per dwelling unit
Park In Lieu-No Subdivision	
Single Family Residential	\$ 2,493.00 per dwelling unit
Multi Family Residential	\$ 2,040.00 per dwelling unit
Local Drainage	
Single Family Residential	\$ 1,649.00 per dwelling unit
Multi Family Residential	\$ 974.00 per dwelling unit
Commercial (Retail)	\$ 9,992.00 per acre
Industrial	\$ 9,992.00 per acre



CITY COUNCIL STAFF REPORT

MEETING DATE: July 10, 2002

ADJUSTMENTS TO USER FEES, SERVICE CHARGES, AND MISCELLANEOUS UTILITIES FEES

RECOMMENDED ACTIONS:

1. Open & close the Public Hearing
2. Waive the first & second reading of the Ordinance
3. Introduce the Ordinance

Agenda Item # 19

Prepared By:

Finance Director

Submitted By:

City Manager

EXECUTIVE SUMMARY: On May 22, staff and the City's consultant, Maximus, presented proposed changes to User Fees, Service Charges, and Miscellaneous Utilities Fees, in the categories of Planning, Building, Engineering, Police, Recreation, Finance, City Clerk, and Miscellaneous Utilities fees. In the attached report, the consultant determined the fee that is necessary to recover the estimated cost incurred by the City for each activity for which the City proposes to charge the public. Staff and the consultant met with developers and other interested parties to discuss the proposed fees. On June 26, the City Council opened a public hearing on these proposed fee adjustments and heard from the public. The City Council then continued the public hearing on these fees until July 17. The public hearing was re-noticed for that date. In response to various implementation questions, staff will be providing additional information on July 17.

As proposed, most fees would increase, while certain fees would decrease. The fees that are associated with the largest increase are for Planning, Building, and Engineering. Collectively, these fees currently bring into the Community Development Fund approximately \$2,023,137 in an average year. However, these fee types account for \$3,370,661 in costs, causing a \$1,347,524 annual loss. The consultant calculates that to recover these costs, Planning fees would increase by 129%, Building fees by 41%, and Engineering fees by 55%.

In general, City practice has been to establish a policy regarding the percentage of costs borne in providing regulation, products, or services, and allow the City Manager to determine the actual figure which will be assessed to recover that percentage of costs. Current City policy, as stated in Municipal Code Chapter 3.50, is to recover 100% of costs reasonably borne in providing regulation, products, or services, with certain exceptions. For those Building fees referenced in the UBC tables, which are most Building fees, staff proposes that the fees be adjusted to the 1997 UBC table amounts, which would provide for full cost recovery. Currently, the City uses the 1991 UBC tables, plus an 8% factor. Most other cities use the 1997 UBC tables. At this time, due to the pendency of the development processing audit, which may identify economic efficiency measures which could be implemented to reduce fee rates, staff recommends that instead of the large increases necessary to bring certain planning fees, building fees not calculated on the UBC tables, and engineering fees to the 100% mark, an increase of approximately 20% be instituted for these fees, and staff be directed to return following completion of the development processing audit to provide a more detailed assessment as to whether the large increases which are currently recommended can be reduced.

Attached are an Ordinance, amending the current fee ordinance, and a Resolution adjusting the amounts of the fees. Staff recommends that the City Council introduce the Ordinance this evening and bring back the Ordinance and Resolution for adoption at the July 17 meeting. Also attached is the consultant's report, describing methodology, proposed full cost recovery, and staff proposed fees.

FISCAL IMPACT: If the City Council adopts all proposed fees, the City would more accurately recover its costs and, in general, collect from those using City services the full cost incurred by the City, except for

Planning, certain Building, and Engineering. *However, if those limited fee increases are not adopted, it would be necessary to reduce the proposed 2002/03 Community Development Fund budget.*

Service No	Account Number	Service Center	Unit	Current Fee	Proposed Fee	% of Costs Reasonably Borne to Be Recovered
1	206-38400	Building Plan Checking	Plan	75% Building Permit Fee for Building Department personnel. 95% of Bldg permit fee if other departments also involved. Plus fully burdened hourly rate for more than 2 initial plan checks	75% Building Permit Fee for Building Department personnel. 95% of Bldg permit fee if other departments also involved. Plus fully burdened hourly rate* for more than 2 initial plan checks	100%
2	206-Various	Construction Inspection	Permit	Varies depending on UBC 1991 Table 3-A plus 8%	Varies depending on UBC 1997 Table 3-A	100%
2 B	206-38400	Address Numbering	Request	\$126 per parcel map \$206 per tract map- ^{1st} 40 addresses \$5.00 each additional	\$53 per parcel map \$106 per tract map- ^{1st} 40 addresses \$5.00 each additional	100%***
2 C	206-38400	Address Renumbering	Request	\$103	\$106	100%***
2 D	206-38400	Street Name Change Review	Application	\$652	\$652	100%
3	206-38148	Sign Permit Review & Inspection	Application	\$298 plus \$35 for free standing structure	\$368 plus \$35 for free standing structure	100%
3 A	206-38149	Sign Copy Review	Application	\$29	\$36	100%
4	206-38418	Bldg. Compliance Inspect.	Inspection	\$189	\$126	100%
5	206-38421	Post Fire Bldg. Ins.	Inspection	\$189	Actual time at burdened hourly rate*	100%
6	206-38424	Bldg. Record Check Fees	Request	\$149	Actual time at burdened hourly rate*	100%
6 A	206-38427	Preliminary Bldg. Code Review	Request	\$64	Actual time at burdened hourly rate*	100%
6B	206-38102	Annexation Inspections (NEW)	Request	\$0	\$160	100%***
7	206-38159	Tentative Parcel Map Fee	Application	\$1,912	\$2,363	100%
8	206-38160	Tentative Subdivision Map Fee	Application	\$3,263	\$4,033	100%
9	206-38138	Reversion to Acreage Permits	Application	\$584	\$722	100%
10	206-38712	Lot Line Adjustment (PW)	Application	\$612	\$734	100%
11	206-38155	Arch & Site Plan Review	Application	\$1,729	\$2,137	100%
11 A	206-38155	Plan Detail Review	Application	Fully burdened		
hourly rate	Fully burdened hourly rate*	100%				
12	206-38153	Site Plan Review Fees	Application	\$1,328	\$1,642	100%
13	206-38154	Conceptual Plan Review	Application	\$721	\$892	100%
15	206-	38118	Dev. Approval Amendment Non-	Admin		Application

Fully burdened hourly rate	Fully burdened hourly rate	100%				
15 A	206-38119	Dev. Approval Amendment Admin	Application	Fully burdened hourly rate	Fully burdened hourly rate	100%
16	206-38147	Uniform Sign Program	Application	\$710	\$877	100%
17	206-38133	Time Ext. Review-Non Admin.	Application	\$779	\$962	100%
17 A	206-38132	Time Ext. Review-Admin.	Application	\$177	\$218	100%
18	206-38156	Preliminary Plan Review	Application	\$2,220	\$2,744	100%
19	206-38170	Conditional Use Permit	Application	\$1,958	\$2,420	100%
20	206-38174	Variance Review	Application	\$1,637	\$2,023	100%
20 A	206-38175	Variance Review-Minor Exceptions	Application	\$487	\$602	100%
21	206-38171	Temporary Use Permit Review	Application	\$458	\$566	100%
21A	206-38171	Temporary Use Permit Amendment (NEW)	Application	N/A	\$382	100%***
23	206-38181	Planned Unit Development	Application	\$2,524	\$3,120	100%
24	206-38182	P.U.D. Amendment Review	Application	Fully burdened hourly rate	Fully burdened hourly rate*	100%
25	206-38135	General Plan Review & Revision	Application	\$2,598	\$3,211	100%
26	206-38100	Annexation Processing	Application	\$1,901 plus any LAFCO fees	\$2,350 plus any LAFCO fees	100%
27	206-38185	Zoning Amendment Review	Application	\$1,929 \$1,288 if processed concurrently with General Plan Amendment or Annexation	\$2,384 \$1,060 if processed concurrently with General Plan Amendment or Annexation	100%
28	206-38186	Zoning Text Amendment Review	Application	\$2,220	\$2,744	100%
29	206-38123	Urban Service Area Amendment	Application	\$1,740 /City initial process \$2,999/LAFCO		\$2,150/City initial process \$3,707/LAFCO
100% 30	206-38125	Initial Environmental Assessment Review	Application	\$361 +Co. Charges & Fish & Game Fees.	\$388 +Co. Charges & Fish & Game Fees	100%
31	206-38126	Expanded Initial Environmental Assessment Review	Application	\$2,519 or 22% of study costs whichever is greater plus actual cost of Study and required State and County fees.	\$1,940 or 22% of study costs whichever is greater plus actual cost of Study and required State and County fees.	100%
32	820-21708	Environmental Impact Review	Study	\$6,456 or 19% of study costs whichever is greater plus actual cost of Study and any required County and State fees.	\$4,656 or 19% of study costs whichever is greater plus actual cost of Study and any required County and State fees.	100%
33	206-38183	Res. Planned Dev Review	Application	\$2,588 \$1,512 if processed concurrently with Tentative Subdivision or Parcel Map	\$3,199 \$1,137 if processed concurrently with Tentative Subdivision or Parcel Map	100%

34	206-38184	Res. Planned Dev Amendment Review	Application	Fully burdened Hourly rate	Fully burdened hourly rate*	100%
35	206-38141	Preliminary Measure "P" Review	Application	\$1,603	\$1,981	100%
35 A	206-38143	Micro Measure 'P' Admin Review	Application	\$945	\$1,168	100%
35 B	206-38144	Micro Measure 'P' Non-Admin Review	Application	\$739	\$913	100%
36	206-38142	Final Measure 'P' Review	Application	\$3,572	\$4,415	100%
37	206-38111	Cultural Resource Designation Review	Application	\$1,277	\$1,578	100%
38	206-38112	Cultural Resource Alteration	Application	\$1,334	\$1,649	100%
39	206-38104	Process Appeal-Com Board Decision	Application	\$1,133	\$1,400	100%
40	206-38105	Process Appeal-Staff	Application	\$298	\$368	100%***
41	206-38115	Development Agreement Review	Request	\$813 \$497 if processed concurrently with Tentative Subdivision or Parcel Map.	\$1,004 \$614 if processed concurrently with Tentative Subdivision or Parcel Map.	100%
42	206-38122	Dev. Credit Trans. Admin.	Request	\$1,237	Fully burdened hourly rate*	100%
42 A	206-38740	Reimbursement Agreement	Application	\$590	\$708	100%
43	206-38178	Williamson Act. Cancel. Review	Request	\$1,110	\$1,372	100%
44	206-38187	Zoning Conf. Review	Request	\$57	\$71	100%
44 A	206-38725	Flood Zone Review	Application	\$57	\$65	100%***
45	206-38163	Tree Removal Review	Application	\$49	\$50	14.32%***
47	206-38108	C.C. & R. Review	Application	\$154 plus fully burdened hourly rate for City Attorney review Fully burdened Hourly rate	\$191 plus fully burdened hourly rate* for City Attorney review Fully burdened hourly rate*	100%
48	206-38198	Planning Consultation	Request	Attorney review Fully burdened Hourly rate	Attorney review Fully burdened hourly rate*	100%
48 A	207-37912	General Plan Maintenance	Application	A surcharge of 3% of the permit fee added to each Bldg. and Planning Permit. Fee Based on Estimated Construction costs. For est. constructions costs -up to \$100,000 = 9% -between \$100,001 and \$200,000 = 8% - between \$200,001 and \$500,000 = 7% - exceeding \$500,000 = 6%	A surcharge of 3% of the permit fee added to each Bldg. and Planning Permit. Fee Based on Estimated Construction costs. For est. constructions costs -up to \$100,000 = 10.8% -between \$100,001 and \$200,000 = 9.6% - between \$200,001 and \$500,000 = 8.4% - exceeding \$500,000 = 7.2%	100%***
49	206-38734	Eng. Plan Checking & Inspect.	Application	Fee Based on Estimated Construction costs. For est. constructions costs -up to \$100,000 = 9% -between \$100,001 and \$200,000 = 8% - between \$200,001 and \$500,000 = 7% - exceeding \$500,000 = 6%	Fee Based on Estimated Construction costs. For est. constructions costs -up to \$100,000 = 10.8% -between \$100,001 and \$200,000 = 9.6% - between \$200,001 and \$500,000 = 8.4% - exceeding \$500,000 = 7.2%	100%
49 A	206-38719	Engineering Services/Consultation	Request	Fully burdened Hourly rate	Fully burdened hourly rate*	100%
50	206-38737	Street Vacation Review	Application	Fully burdened hourly rate plus attorney's fees	Fully burdened hourly rate plus attorney's fees	100%
50 A	206-38737	Easement Abandonment	Application	\$1,088	\$1306	100%***

52	206-38430	Certificate of Compliance	Request	\$789	\$947	100%
55	206-38703	Encroachment Rev. & Insp.	Permit	\$132 per permit plus fully burdened hourly rate for inspection time in excess of one hour.	\$158 per permit plus fully burdened hourly rate for inspection time in excess of one hour.	100%
57 C	Various	Commercial Development Assistance	Request	Fully burdened Hourly rate	Fully burdened hourly rate*	100%***
57 D	Various	Residential Dev. Financial Assistance	Request	Fully burdened Hourly rate	Fully burdened hourly rate*	100%***
59	010-37204	Bicycle Registration	License	\$2	\$10	100%***
62	206-38433	Bldg. & Health Code Enforcement	Inspection	\$355	Fully burdened hourly rate*	100%
63	206-38442	Zoning Code Enforcement	Inspection	Fully burdened Hourly rate	Fully burdened hourly rate*	100%
65	010-37636	Community Event Security	Hour	\$75 hr. community events \$30 hr. plus OH on paid contract detail	Fully burdened hourly rate*	100%
65 B	010-37914	Special Traffic Control	Request	\$45	Fully burdened hourly rate*	100%***
66	010-37834	Police False Alarm Charge	Response	One free plus \$114 for each additional false alarm within 90 days	One free plus \$119 for each additional false alarm within 90 days	100%
67	206-38722	Wide and Overweight Load Review	Permit	Single Trip-\$19 Blanket (Annual) \$108	Single Trip-\$22 Blanket (Annual) \$108	100%
69	010-37836	Police Report	Report	\$11 plus \$0.25 for each page over 5 pages.	\$12 plus \$0.30 for each page over 5 pages.	100%
70	010-37633	DUI Investigations	Citation	Fully burdened hourly rate for actual time spent	\$540	100%
71 A	010-37901	Stored Vehicle Release Processing	Vehicle	\$40	\$58	100%***
71 B	010-37902	VIN Verification	Response	\$35	\$48	100%***
72	010-37839	Police Photograph Sale	Photo	\$14 Photo \$18 video tape \$21 90-minute audio tape \$16 60-minute audio tape	\$17 Photo \$18 video tape \$34 90-minute audio tape \$25 60-minute audio tape	100%
88 A	Various	Special Events - Community Parks	Event	Fully burdened hourly rate	Fully burdened hourly rate*	100%***
88 B	Various	Special Events - City Streets	Event	Fully burdened hourly rate	Fully burdened hourly rate*	100%***
89	206-38428	Parcel Map Address	Application	\$126	\$53	100%***
90	206-38428	Tract Map Address	Application	\$206	\$106	100%***
91	206-38723	Wide Load Review - PW	Application	\$16	\$19	100%***
92	206-38724	Wide Load Permit	Permit	\$90	\$108	100%***
93	206-38741	Reimbursement Agreement - PW	Application	590	\$708	100%
100 A	650-37661	Secondary Water Quality Testing	Service Call	\$74	\$80	100%
101	650-37672	Meter Install & Service	Meter	\$35 plus cost of meters 5/8" to 1" \$45 plus cost of meters 1 1/2" to 2" Time & material +	OH - 3" meter	\$51 plus cost of meter for 5/8" to 2" meter; Fully burdened hourly rate* & cost of meter for 3" meter

100%						
102	650-37858	Utility Account Set-up	Customer	\$17	\$25	100%
103	650-37673	Delinquent Water Turn Off/On	Customer	\$39-normal working hrs. \$78-after hours \$78 Per hr.	\$38-normal working hrs. \$76-after hours Fully burdened hourly rate*	100%
103 A	650-37892	Utility Service Call	Request			100%
104	650-37859	Annual Backflow Testing Administration (NEW)	Test	\$0	\$10	32.61%***
104 A	650-37859	Construction Backflow Inspect.	Inspection	\$69	\$46	100%
104C	650-37882	Delinquent Door Hangers (NEW)	Delinquent Acct	\$0	\$4	100%***
116	010-37867	Retuned Check Processing	Check	\$17	\$18	100%***
117	010-37868	Records Research Service	Hour	Fully burdened hourly rate against an initial deposit	Fully burdened hourly rate* against an initial deposit	100%
117 A	640-37881 650-37881	Utility Bill-Delinquent Charges	Customer	1-1/2% per month on delinquent unpaid balance	1-1/2% per month on delinquent unpaid balance	100%
117 B	650-37882	Delinquent Bill Processing (Notice)	Bill	\$12	\$12	100%
118	010-37617	Document Print & Copying	Item	\$0.75 first page \$0.10 each additional page	\$0.30 per page	100%
119	010-37869	Agenda Mail Service - Annual	Request	\$14/full pack \$3 each Agenda/min.	\$0.30 per page.	100%
119A	010-37869	City Council Agenda Packet Mail Service – Annual (NEW)	Request	\$0.75 first page \$0.10 each additional page	\$1,584	100%***
119B	206-38192	Planning Commission Agenda Packet Mail Service – Annual (NEW)	Request	\$0.75 first page \$0.10 each additional page	\$	100%***
123	010-37678	Electronic Search of Public Records (NEW)	Tape	\$0	569 \$2,500	100%***
124	010-37883	City Attorney	Request	City Attorney - \$125/hr. Deputy City Attorney - \$901hr	. Fully burdened hourly rate*	100%***
125	304-37663	Storm Drain Fees – Frontage Charge				
		One-Sided	Lineal Foot	\$80	\$80	100%***
		Two-Sided	Lineal Foot	\$40	\$40	100%***
126 A		Front Footage Charge				
	650-37663	Water One-sided	Lineal Foot	\$50	\$50	100%***
		Water Two-sided	Lineal Foot	\$25	\$25	100%***
B	640-37663	Sewer One-Sided	Lineal Foot	\$50	\$50	100%***
		Sewer Two-Sided	Lineal Foot	\$25	\$25	100%***
129	350-37648	Underground Utilities Fees				
		One-Sided	Lineal Foot	\$200	\$200	100%***
		Two-Sided	Lineal Foot	\$100	\$100	100%***
132	010-37875	Bond Letter	Request	\$45	\$45	100%
135	206-38716	Map Checking-Parcel Map	Request	\$2,633 parcel map \$3,750/subdivision map	\$2,579/parcel map \$3,634msubdivision map	100%
137	010-37886	Business License Application Review	Application	\$45-new/moved \$0-renewal \$57-if home occupancy permit is needed	\$46-new/moved \$0-renewal \$57-if home occupancy permit is needed	100%
139	010-37917	Business License Listing	Request	\$5	\$0.30 per page	100%***
140	010-37980	Animal Control Fees		Set by separate resolution	**See below**	

140 A	010-37980	Animal Establishment Permits: a) Pet shop, commercial kennel, pet grooming parlor, animal menagerie, animal shelter or horse establishment	Permit	\$100	\$96	100%***
140 B	010-37980	b) Private Kennel Cat Registration Fees: a) neutered or spayed animal (1 yr)	Permit License	\$50 \$12	\$51 \$12	70.59%***
		b) neutered or spayed animal (3 yrs)	License	\$31	\$31	60.78%***
		c) unaltered animal (1 yr)	License	\$24	\$17	100%***
		d) unaltered animal (3 yrs)	License	\$67	\$41	80.39%***
140 C	010-37980	Dog License Fees: a) neutered or spayed animal (1 yr)	License	\$12	\$12	70.59%***
		b) neutered or spayed animal (3 yrs)	License	\$31	\$31	60.78%***
		c) unaltered animal (1 yr)	License	\$24	\$17	100%***
		d) unaltered animal (3 yrs)	License	\$67	\$41	80.39%***
		e) Penalty fee per MHMC 6.12.060	License	\$25	\$25	N/A
		f) Duplicate Tag	License	\$4	\$4	100%***
		g) Potentially Dangerous Animal Fee	Incident	\$50	\$50	100%***
140 D	010-37980	Bite Investigation and Report	Incident	\$85	\$125	100%***
140 E	010-37980	Inspection and Quarantine Order Fee: a. In addition, actual costs of housing, feeding and other care of quarantined animal. b. The administrator may waive said fee as follows: 1. Where dog is only suspected of biting; 2. Dogs used in government law enforcement; 3. Guide dogs for blind or deaf persons; 4. Dogs that have bitten any person trespassing on the dog owners 5. Dogs that have bitten any person trespassing on the dog owner's property.	Incident	\$40	\$105	100%***
140 F	010-37980	Impoundment - Does not include county shelter drop fee for dogs and cats. Hauling and boarding costs for livestock shall be charged the owner in an amount sufficient to defray all actual expenses, including staff time and overhead.	Incident	\$95	\$105	100%***
140 G	010-37980	Board Fees for each day over 2 a) Dog (per day) b) Cat (per day) c) Other animals (per day)	Incident	Impoundment plus \$10 Impoundment plus \$10 Impoundment plus cost	Impoundment + \$15/day Impoundment + \$15/day Impoundment + \$15/day	100%*** 100%*** 100%***
140 H	010-37980	County Shelter Drop Fee Does not include boarding fees charged per day.	Incident	Per agreement	Per agreement	N/A
141	010-37633	Police Mutual Aid	Hour	Overtime Rate	Overtime Rate	100%***
142A	010-37221	Live Entertainment Permit – New	Permit	\$67	\$72	100%***

142B	010-37221	Live Entertainment Permit – Renewal	Permit	\$34	\$39	100%***
142C	010-37221	Live Entertainment Permit – 1-time only	Permit	\$52	\$55	100%***
142D	010-37222	Taxi License – Company	License	\$45	\$97	100%***
142E	010-37222	Taxi License – Driver	License	\$27	\$47	100%***
142F		Adult Business Permit	Permit	\$250	\$226	100%***
143	010-37636	Special Police Detail	Hour	Fully burdened hourly rate	Fully burdened hourly rate*	100%***
144	010-37920	Class/Program Processing Fee (NEW)	Participant	\$0	\$10	100%***
145	010-37924	Park/Field Reservation Processing – under 50 (NEW)	Reservation	\$0	\$17	100%***
146	010-37926	Park/Field Reservation Processing – 50 or more (NEW)	Reservation	\$0	\$125	23.44%***
154	010-37938	Other Extraordinary Services (including After Hours Inspections, Noise Level Monitoring Code Enforcement, and Research) (NEW)	Request	\$0	Fully burdened hourly rate*	100%***

· All burdened hourly rates are to be established by the City Manager at a rate that does not exceed the sum of the actual salary, actual employee benefit, and actual applicable overhead costs

*** The proposed percentage of costs reasonably borne to be recovered is a change to the current percentage.



CITY COUNCIL MEETING STAFF REPORT

MEETING DATE: July 10, 2002

TITLE: CITY RECREATION FACILITY RESERVATION
PROCEDURES AND USER FEES

RECOMMENDED ACTIONS:

1. Open & close the Public Hearing
2. Waive the first & second reading of the Ordinance
3. Introduce the Ordinance

EXECUTIVE SUMMARY: On May 22, 2002 the City Council reviewed proposed user fees for city outdoor recreation facilities and a proposed policy for taking reservations for those facilities, which were previously reviewed by the Parks and Recreation Commission.

On June 26, the City Council opened a public hearing on these proposed fees, heard from the public, and continued the public hearing on these fees until July 17. The public hearing was also re-noticed for that date. At that time, there will be further opportunity to review and discuss proposed fees and the procedures for taking reservations for City Recreation Facilities. Based upon City Council input, staff will be presenting options to the currently proposed fee schedule for City Council consideration.

Attached are an Ordinance, amending the current fee ordinance, and a Resolution setting the amounts of the currently proposed fees. Staff recommends that the City Council introduce the Ordinance this evening and bring back the Ordinance and Resolution for adoption at the July 17 continued public hearing.

FISCAL IMPACT: If the City Council adopts the proposed fees, the City would collect new revenues from users of the City's parks and sport fields.

Agenda Item # 20

Prepared By:

Recreation Manager

Submitted By:

City Manager

Service No	Account Number	Service Center	Unit	Current Fee	Proposed Fee
144	010-37920	Class/Program Processing Fee (NEW)	Participant	\$0	\$10
145	010-37924	Park/Field Reservation Processing – under 50 (NEW)	Reservation	\$0	\$17
146	010-37926	Park/Field Reservation Processing – 50 or more (NEW)	Reservation	\$0	\$125
147	010-37922	Class/Program Participant Fee (NEW)	Participant	\$0	Actual contract instructor cost; or fully burdened hourly rate* if taught by City employee
148	010-37928	Sport Field or Tennis Court (w/o lights) (NEW) --Category A** --Category B** --Category C**	Field or Court per Hour	\$0 \$0 \$0	\$2 \$15 \$35
149	010-37930	Sport Field or Tennis Court (with lights) (NEW) --Category A** --Category B** --Category C**	Field or Court per Hour	\$0 \$0 \$0	\$9 \$35 \$55
150	010-37932	Picnic Area (NEW) --Category A** --Category B** --Category C**	Area per Hour	\$0 \$0 \$0	\$0 \$0 \$35
151	010-37934	Special Event (NEW) Reserving Entire Park or Site	Park or Site per Hour	\$0	Hourly Category Rate for All Sport Fields & Picnic Areas at Given Facility, with a Maximum of 8 Hours per Day
152	010-37936	Staffing Fees for Categories A, B, or C** (NEW)	Park or Site per Hour	\$0	\$25 per Hour, with a 2 Hour Minimum
153	820-21700	BBQ Crank Handle Refundable Deposit (NEW)	Use	\$0	\$50

** Category A is comprised of seasonal, one-time uses or special events held by City sponsored community programs and non-profit youth sport, senior or civic organizations with proper State credentials headquartered in and for the primary benefit of youth living in the City of Morgan Hill. Category A non-profit organizations must certify that they are comprised of more than 66% of their membership residing within the City limits of Morgan Hill. This category includes activities sponsored by the City of Morgan Hill, approved Morgan Hill local non-profit youth and senior related organizations, including the local YMCA, Chamber of Commerce, and other governmental agencies including the Morgan Hill Unified School District.

Category B is comprised of seasonal, one-time uses or special events held by residents of the City of Morgan Hill and other non-profit community organizations with proper State credentials, which are not commercial in nature and are not designed to produce private revenue. To qualify for this category, individuals must provide their home addresses showing that they live within the city limits of the City of Morgan Hill. This category includes service organizations, non-profit organizations, and fund raising activities of churches and recognized welfare organizations, private clubs, and group activities of a welfare fund raising nature that do not qualify under Category A, whether or not admission is charged.

Category C is comprised of uses by for-profit organizations, individuals/teams, non-residents, and corporations.



CITY COUNCIL STAFF REPORT

MEETING DATE: July 10, 2002

SANTA CLARA COUNTY POLLUTION PREVENTION PROGRAM

RECOMMENDED ACTION:

Identify Council Member Interest in Serving on the Santa Clara Pollution Prevention Program, Hazardous Materials Advisory Committee

EXECUTIVE SUMMARY:

Mayor Pro Tempore Carr currently serves as the South County's representative to the Santa Clara County Pollution Prevention Program, Hazardous Materials Advisory Committee (Committee). Mayor Pro Tempore Carr indicates that he has a conflict with his work schedule and will therefore be unable to continue representing South County on this Committee.

Mayor Kennedy would like to know if there is another Council member interested in serving on this Committee. If so, he will take Morgan Hill Council member's interest to the Santa Clara County Cities Association for appointment replacement.

This Committee was established to promote the adoption of pollution prevention and sustainable business practices by industry, government and the public to protect and enhance both the environmental and economic resources of communities. The Committee meets on the fourth Wednesday of the following months: January, March, May, June, August, September and November from 9:00 to 11:00 a.m. at 70 West Hedding Street, 11th Floor, San Jose.

FISCAL IMPACT: No fiscal Impact. The time necessary to prepare this report is accommodated in the Council Services & Records Manager's Operating Budget.

Agenda Item # 21

**Prepared/Approved
By:**

**Council Services &
Records Manager**

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: July 10, 2002

HOUSING TYPE DISTRIBUTION AND TERM FOR 2002-03 MEASURE "P" COMPETITION (FY 2004-05 AND A PORTION OF THE FY 2005-06 BUILDING ALLOTMENT) RECOMMENDED ACTION(S):

Adopt Resolution approving the total building allotment and distribution and authorizing Measure P competitions to be conducted during fiscal year 2002-03 for the balance of the fiscal year 2004-05 building allotment and a portion of the fiscal year 2005-06 building allotment.

EXECUTIVE SUMMARY: In June/July of each year preceding a Measure P competition, the City Council is required to establish the total number and type of housing units to be awarded to be allotted for each type of housing in the next Measure P competition.

The Planning Commission recommends the City Council authorize a modified two-year Measure P competition to be held for the balance of the fiscal year 2004-05 building allocation (134 units) and a portion of the fiscal year 2005-06 allocation (approximately 124 units). The Commission recommends the allotment be distributed as follows: In the first year, for the fiscal year 2004-05 building allotment, **6** units would be reserved for partially completed projects, **12** units, would be reserved for projects that are 100% affordable, **5** units, would be reserved for a micro project competition, and **111** units, would be reserved for new projects in the open/market competition.

In the second year, a portion of the fiscal year 2005-06 building allotment reserved for the open/market competition would be awarded. The building allotment for the micro and affordable competition categories would be awarded next fiscal year. The Planning Commission recommends the fiscal year 2005-06 building allotment be distributed as follows: **33** units (20% of the total allotment) be reserved for projects that are 100% affordable, **7** units (4% of the total allotment) be reserved for the micro project competition, and **124** (76% of the total allotment) be reserved for projects in the open/market competition.

The Planning Commission is recommending a two-year allocation for the fiscal year 2002-03 open/market competition. The benefit of a two-year allotment is that it will provide additional lead time for processing subdivision maps and other entitlements. This will help to ensure that the dwelling units allocated for a given fiscal year are constructed within the fiscal year of the award.

The Planning Commission is also recommending that 65 percent of the open/market set-aside in both years be reserved for on-going projects such as Mission Ranch, Central Park, etc. This reserve will help to accelerate the build out of these developments. This in turn will allow the City to achieve a greater degree of compliance with our Housing Element, in terms of the number of dwelling units that we need to produce between 1999 and 2006.

On-going projects have received their environmental clearances, most of their entitlements, and much of the public infrastructure for these projects is already in place. These projects are therefore in a position to proceed sooner, and are more likely to produce the housing in the fiscal year of their allotment. New projects by comparison, need up to a year to complete the environmental clearance and entitlement process.

Agenda Item # 22

Prepared By:

Planning Manager

Approved By:

**Community
Development Director**

Submitted By:

City Manager

HOUSING TYPE DISTRIBUTION AND TERM FOR 2002-03 MEASURE "P" COMPETITION

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Therefore, building allocations awarded to new projects for Fiscal Year 2005-06 will not likely be completed until FY 2006-07, too late to count toward our regional housing objective as stated in the Housing Element.

Establishing a reserve for on-going projects will hopefully result in fewer incomplete projects throughout the community. Currently, there are six (6) on-going development that will require allocations for 459 units to complete build out. At the current rate of build out, some of these projects may take as long as another five to ten years to complete. That's a long time for residents in these developments to be living in a construction zone. A two-year competition is not sufficient to complete all six projects, but it would allow up to three of these projects to be fully allocated and thus be completed within the next three or four years.

The Planning Commission recommends some flexibility to change the final distribution of allotment as may be necessary to respond to changes in the housing market (change in the build-out rate for existing projects, increase demand for particular housing types, etc.). The Commission also recommends the total building allotment for Fiscal Year 2004-05 and Fiscal Year 2005-06 be increased or decreased based on the January 1, 2003 total population and persons per household estimates for Morgan Hill as determined by the State Department of Finance (DOF). Any increase in the authorized building allotment would be distributed to the set-aside for the Open/Market competition. The staff report to the Planning Commission from the June 25, 2002 Commission meeting is attached as background information.

The Commission voted 7-0 to recommend approval of the attached housing distribution by the City Council. Staff supports the Commission's recommendation.

FISCAL IMPACT:

The final cost for preparation of staff reports, meetings and other research for this item has not been determined. The cost will be charged to the Community Development Fund pursuant to City Council Policy.